The Auditor-General
Audit Report No.14 2007–08
Performance Audit

Performance Audit of the Regional Partnerships Programme: Volume 2–Main Report

Department of Transport and Regional Services

Australian National Audit Office

Contents

Abbreviations

ABN	Australian Business Number
ACC	Area Consultative Committee
ACN	Australian Company Number
AELC	Australian Equine and Livestock Centre
AGS	Australian Government Solicitor
ANAO	Australian National Audit Office
ASIC	Australian Securities and Investments Commission
ATDP	Australian Tourism Development Program
DAFF	Department of Agriculture, Fisheries and Forestry
DEWRSB	Department of Employment, Workplace Relations and Small Business
DOTARS	Department of Transport and Regional Services
DVC	Department of Victorian Communities
Finance	Department of Finance and Administration
FMA Act	*Financial Management and Accountability Act 1997*
FMA Regulations	*Financial Management and Accountability Regulations 1997*
GST	Goods and Services Tax
HORERA	House of Representatives Standing Committee on Environment, Recreation and the Arts
ICC	Indigenous Coordination Centre

IRR	Internal rate of return
LGA	Local Government Authority
MOU	Memorandum of Understanding
NENWACC	New England North West ACC
NPV	Net present value
NVAC	Namoi Valley Advisory Committee
NVSAP	Namoi Valley Structural Adjustment Package
PBSs	Portfolio Budget Statements
PM&C	Department of the Prime Minister and Cabinet
PTA	State Public Transport Authority
Senate Committee	Senate Finance and Public Administration References Committee
SOF	Strategic Opportunities Fund
SONA	Strategic Opportunities Notional Allocation
SIRP	Sugar Industry Reform Program
WACC	Weighted average cost of capital

Glossary

Acquittal	A process by which DOTARS verifies that a funding recipient has expended Regional Partnerships funding for the purpose and in the manner specified in the Funding Agreement.
FMA Regulations	FMA Regulations are those made by the Governor-General that relate to matters necessary or convenient for carrying out or giving effect to the *Financial Management and Accountability Act 1997*. They are made on the recommendation of the Government.
Funding Agreement	A legally enforceable agreement setting out the funding terms and conditions under which a grant is provided. The Standardised Funding Agreement used for Regional Partnerships grants comes in two forms—Long Form (used for most grants) and Short Form (used for grants of $50 000 or less).
Grant	A grant is a sum of money given to organisations or individuals for a specified purpose directed at achieving goals and objectives consistent with government policy. In a strict legal sense, a grant is a 'gift' from the Crown, which may, or may not, be subject to unilaterally imposed conditions. However, the term is more generally used to include any funding agreement where the recipient is selected on merit against a set of criteria.
Internal Procedures Manual	This is the manual that sets out the procedures to be applied by departmental officials in the administration of the Regional Partnerships Programme. It has been periodically revised over the course of the Programme, with the

	most recent version issued in July 2007 reflecting a significant re-engineering of the Programme's administration.
Ministerial Committee	Committee of three Ministers formed from 30 November 2005 to take decisions on all Regional Partnerships applications.
Partner co-funding	Financial or in-kind contributions proposed to be made by the funding applicant or other parties, other than the Regional Partnerships Programme, to the cost of a project for which Regional Partnerships funding is sought and, for successful applicants, received.
Portfolio Budget Statements	Form part of the Budget papers and function like an explanatory memorandum for a Bill before the Parliament. They explain the provisions of the Budget Bills to the Parliament.
Programme Guidelines	The Regional Partnerships Programme Guidelines have been approved by the responsible Ministers and published by DOTARS on its Regional Partnerships website. The Guidelines set out the Programme objectives; application, assessment and decision-making processes; and the eligibility and assessment criteria that are to be applied in determining successful applicants.
TRAX	Information Technology system used in the administration of the Regional Partnerships Programme.

Part 1: Introduction and Audit Approach

1:1 Introduction

This chapter provides background information on the Regional Partnerships Programme and provides a summary of the audit objectives and approach.

Programme establishment

1:1.1 In 1999, the Government held the Regional Australia Summit, where delegates representing communities, business and government met to develop a national appreciation of the challenges facing regional Australia.[94] The Government's response to the Regional Australia Summit was the August 2001 *Stronger Regions, A Stronger Australia* Statement. This Statement outlined the Government's framework for regional development through the following decade. Key directions identified in the Statement included a partnership approach between the community and government.[95]

1:1.2 Following the release of the Statement, the then Minister for Transport and Regional Services commissioned an internal Regional Programmes Reform Taskforce to undertake a review of the regional programmes then administered by the Department of Transport and Regional Services (DOTARS). Figure 1:1.1 sets out the Taskforce's terms of reference.

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[94] Department of Transport and Regional Services, *Inquiry into the Regional Partnerships Programme and Sustainable Regions Programme—Submission by the Department of Transport and Regional Services*, 28 January 2005, p. 3.

[95] ibid.

Figure 1:1.1

Terms of Reference: Regional Programmes Reform Taskforce

Through *Stronger Regions, A Stronger Australi*a the Government has stated its priority is to take a planned, cooperative "partnership" approach to dealing with the variety of social, economic and environmental changes challenging regional Australia.

To strengthen the Government's capacity to achieve this whole-of-government agenda, an internal review of the Department of Transport and Regional Services' regional programmes will assess, by July 2002, the effectiveness of these programmes in achieving the Government's policy objectives. To better integrate outcomes for communities, it will also examine the programmes' delivery mechanisms and operations, taking into account the view of program applicants as well as good practice in other programmes.

In particular, the Taskforce will review the programmes, against the Government's policy objectives, to:

- Address policy issues, or program gaps or overlaps, that affect the capacity of the programmes to deliver against the Government's goals and priorities as articulated in the *Stronger Regions, A Stronger Australia* statement.
- Identify approaches to enhance the programmes' effectiveness in meeting the needs of clients, and the efficiency in their delivery through:
    - greater integration of the programmes
    - possible mechanisms for delivering whole-of-government approaches with other agencies, for example through shared funding and accountability models
    - improvements to the operations of individual programmes
- Strengthen the delivery mechanism for the programmes, taking account of the national and regional offices, the Remote Communities Liaison Officer, and the Area Consultative Committees.

Source: Regional Programmes Reform Taskforce Terms of Reference.

1:1.3 At the time of the Taskforce's review, DOTARS managed ten community grants programmes—Regional Solutions, Regional Assistance, Rural Transaction Centres, Dairy Regional Assistance, Sustainable Regions, Rail Reform Transition and the structural adjustment packages for the Eden Region (NSW), Newcastle (NSW), Wide-Bay Burnett (QLD), and the South West Forests (WA) regions. In its July 2002 report, the Taskforce reported that this had created a number of issues for it to address, including:

- too many seemingly undifferentiated programmes;
- questions as to whether DOTARS' programmes were targeting Commonwealth priorities and gaps;
- a need for more apparent flexibility, responsiveness and timeliness;
- some programmes being seen as 'Canberra centric', with a need for better whole-of-government funding;
- a lack of certainty as to the roles of Area Consultative Committees (ACCs) and DOTARS' Regional Offices and National Office; and

- a need to improve the future evaluation of DOTARS' programmes.

1:1.4 As part of the review process, analysis was undertaken of matters such as the funding trends and guidelines of existing regional programmes; whole-of-government programme comparisons against the *Stronger Regions, A Stronger Australia* goals and priorities; community attitudes towards DOTARS' regional programmes; and the views of ACCs. The Taskforce identified that there was a clear niche for DOTARS' programmes to focus on two goals and two priorities from the *Stronger Regions, A Stronger Australia* Statement, as follows:

Goals

- Strengthening regional economic and social opportunities.
- Adjusting to economic, technological and government-induced change.

Priorities

- Taking a planned, cooperative approach to dealing with social and economic impacts of structural change.
- Putting in place organisational arrangements that enhance Government's responsiveness to regions' needs.

1:1.5 On 30 May 2002, the then Minister for Transport and Regional Services agreed to the Taskforce's recommended future directions for DOTARS' regional programmes, including that:

- the regional programmes would be rationalised and presented as a single package or 'toolbox' (except for the Sustainable Regions Programme);
- the four priorities targeted through the package would be:
  - Strengthening Growth/Opportunities;
  - Assisting Structural Adjustment for Communities;
  - Improving Access for Services; and
  - Supporting Planning;
- there would be managed devolution of decision-making to DOTARS officials in Regional Offices and National Office (this strategy was not ultimately implemented—see further in Part 2 of this audit report relating to Application Assessment and Approval Processes); and
- DOTARS would develop a New Policy Proposal for the 2003–04 Budget that would seek to:

  - increase the funds available under the ‘tool box’ to a minimum of $100 million per annum;
  - establish it as an ongoing appropriation; and
  - consider issues around structuring appropriation/s for the programme to provide maximum flexibility.

1:1.6 The Taskforce advised the then Minister that emerging needs could be readily addressed within the proposed package, without the need to create new programmes or processes.

1:1.7 Following the Minister’s agreement to the proposed direction, further attitudinal research was commissioned to inform the approach to be taken to the packaging of DOTARS’ regional programmes under one umbrella. On 11 April 2003, the then Minister for Transport and Regional Services and the then Minister for Regional Services, Territories and Local Government agreed to the recommendation that ‘Regional Partnerships Programme’ be the name of the integrated regional package.

1:1.8 In jointly announcing the Programme, the Ministers stated:

> Regional Partnerships integrates all of the Government’s key regional funding programmes, except Sustainable Regions, into one simple programme…
>
> …Under Regional Partnerships there is one set of guidelines and one simple application process to make it as easy as possible to apply for Federal Government funding support.[96]

2005 changes

1:1.9 In the second half of 2005, the then Minister for Transport and Regional Services indicated to DOTARS a number of concerns with the operation of the Regional Partnerships Programme.[97] On 26 October 2005, DOTARS provided the then Minister with options for discussion to address some of these concerns.

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[96] Joint Media Release, The Hon John Anderson MP, Deputy Prime Minister, Minister for Transport and Regional Services and The Hon Wilson Tuckey MP, Minister for Regional Services, Territories and Local Government, *A New Regional Partnership*, 26 June 2003.

[97] DOTARS records state that these concerns related to: scope for cost shifting by State and local governments; poor quality projects, particularly infrastructure development in areas where access to commercial finance was unlikely to be a problem; consistency in project assessments and approvals; the most appropriate role for the ACCs; and the cost of project administration.

1:1.10 In November 2005, the then Minister announced some changes to the delivery arrangements for Regional Partnerships funding. The announced changes involved:

- the formation of a Committee of three Ministers to make decisions about whether or not to approve funding for each application, rather than the previous approach of a single Ministerial decision-maker. Ministers were also to retain their role in developing and approving Programme Guidelines and administrative arrangements. The Ministerial Committee is comprised of the Minister for Transport and Regional Services, the Minister for Local Government, Territories and Roads, and the Hon Gary Nairn MP[98];
- the introduction of a single assessment of applications conducted by DOTARS' National Office in Canberra, with a funding recommendation then provided to the Ministerial Committee. Previously, Regional Offices were primarily responsible for assessing applications, with National Office performing a quality assurance role and providing the project assessment and funding recommendation to the Ministerial decision-maker(s); and
- changes to strengthen and develop the role of the ACCs.[99]

1:1.11 The move to a single assessment model within DOTARS' National Office (commencing in mid-March 2006) was intended to streamline assessments so that problems with applications could be identified more quickly, there would be greater consistency in the funding recommendations provided to Ministers and funding decisions could be made sooner. Figure 1:1.2 provides an overview of the Regional Partnerships Programme workflow following these changes, as advised to Australian National Audit Office (ANAO) by DOTARS.

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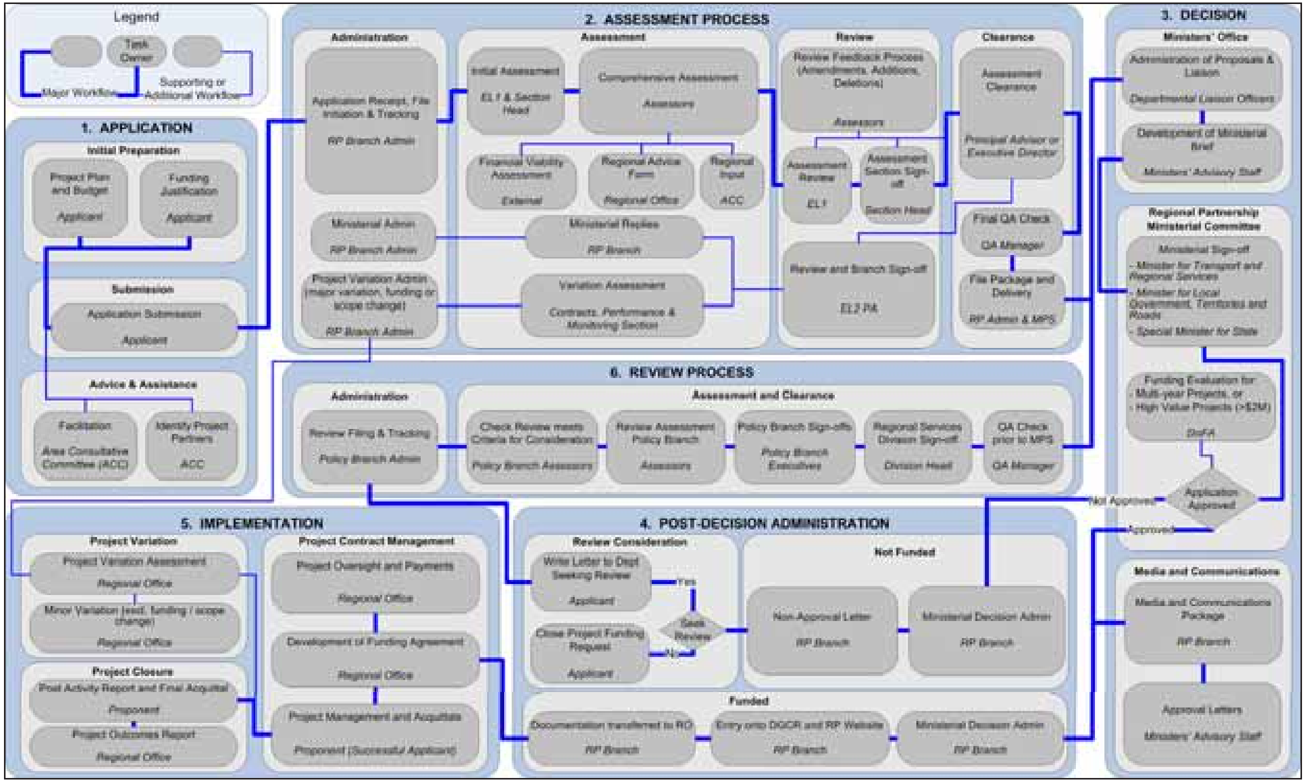
[98] Mr Nairn was appointed to the Committee as a nominee of the Prime Minister. At the time of his appointment, Mr Nairn was the Parliamentary Secretary to the Prime Minister, responsible for the administration of relevant matters within the Prime Minister and Cabinet portfolio. On 27 January 2006, Mr Nairn became Special Minister of State, responsible for the administration of relevant matters within the Finance and Administration portfolio, but continued as a member of the Regional Partnerships Ministerial Committee.

[99] It was announced that: changes would be made to the ACC funding arrangements; the Government would appoint the chair and deputy chair of each ACC; each year the Minister for Transport and Regional Services would provide ACCs with written advice and guidelines on the Government's broad policy priorities for the Programme; and the relevant ACC chair would be required to provide a statement identifying any competitive neutrality issues for projects where assistance greater than $25 000 was sought for a business or commercial venture.

Figure 1:1.2

Overview of Regional Partnerships Programme Workflow



Source: ANAO reproduction of DOTARS diagram.

1:1.12 On 28 May 2007, the Minister for Transport and Regional Services announced, in a speech to the 2007 Area Consultative Committees Conference, that:

> In response to delays being experienced where variations to approved projects have been required, the Ministerial Committee has delegated the responsibility for approving minor variations for approved projects to the department, provided that the total funding does not exceed the amount approved, that all funding conditions are met, and that partnerships remain within programme guideline limits.
>
> …However, the ultimate responsibility for the Regional Partnerships programme will always lie with the Ministerial Committee to ensure that Australian Government funds are directed to projects, large and small, that are genuinely needed and will make a difference.[100]

2007 changes

1:1.13 A review of the Programme requested by the Government was completed in February 2006 and presented as part of the departmental submission to the 2006–07 Budget. In the context of the Government's response to the October 2005 report of the Senate Finance and Public Administration References Committee's[101] inquiry into the Regional Partnerships and Sustainable Regions Programmes, the Government agreed to assess the need for a further review of the Programme once the mid-term Programme evaluation was completed (which occurred in November 2006), and the report of this ANAO performance audit became available. In August 2007, the Finance Minister indicated that the terms of reference for the Programme review would have regard to the issues raised by this performance audit.

1:1.14 On 12 September 2007, the Minister for Transport and Regional Services announced[102] that:

- a new Growing Regions Programme would be established to invest in major projects that will help communities respond to the pressure of change. It was also announced that $200 million would be invested in the Programme over four years for major projects, with businesses,

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[100] The Hon Mark Vaile MP, Minister for Transport and Regional Services, *2007 Area Consultative Committees Conference*, Canberra, VS09/2007, 28 May 2007.

[101] Hereafter referred to as the Senate Committee.

[102] The Hon Mark Vaile, Minister for Transport and Regional Services, *National Press Club Address Plan for Regional Australia*, VS19/2007, 12 September 2007.

local governments, institutions and communities able to apply for funding of $1 million to $3 million per project, and that, in most cases, there would be a requirement for matching funding from the State or Territory government and project proponent;

- the Regional Partnerships Programme would be restricted to projects that need funding of less than $1 million, the lower threshold for an application under Growing Regions; and
- applications for Regional Partnerships funding would be considered in three streams of:
  - Enterprise Partnerships, into which all applications from private businesses would be channelled. Applications for funding under this stream would be considered through two funding rounds a year. In announcing this change, the Minister said:

    > We are restricting the timing of these applications so we can consider them more thoroughly and undertake stronger financial viability assessments;

  - Community Partnerships, to which all other applicants would be able to apply at any time. There would continue to be a partnership funding requirement under this stream, but it would be reduced for some local government and not-for-profit and charitable organisation applicants; and
  - Grants under $50 000. Applicants seeking funding of less than $50 000 would be able to apply through a streamlined application process, except for private businesses.

1:1.15 These changes provide both a clearer focus for applicants in applying for grants and for the department in tailoring its administration of each stream. Nevertheless, based on the nature of applications made to the Regional Partnerships Programme during its first three years of operation:

- the introduction of a funding cap of less than $1 million will not result in a significant change in the number of applications being made to the Regional Partnerships Programme, with only 2.6 per cent of applications on which a decision had been made as at 30 June 2006 having been for amounts in excess of $1 million; and
- under the Community Partnerships stream, most applications will continue to be considered for funding on a continuous basis through

> similar decision-making and administrative procedures as have applied to date. In this respect, applications from for-profit applicants, which will now be subject to funding rounds, represented 12 per cent of Regional Partnerships applications on which a decision had been taken as at 30 June 2006.

Audit approach

1:1.16 Having regard to interest in the administration of the Regional Partnerships Programme expressed by a number of Parliamentarians, the ANAO Planned Audit Work Programme for 2005–06 included a potential audit of the Programme.

1:1.17 As noted, in October 2005, the then Senate Finance and Public Administration References Committee tabled the report of its inquiry into the Regional Partnerships and Sustainable Regions Programmes. The Senate Committee's report concluded that:

> The case studies and issues discussed in this report illustrate some serious inadequacies and inconsistencies in the administration of the Regional Partnerships and Sustainable Region programs. The Committee considers that there is significant scope for improving the administration, accountability and transparency of both programs. In light of these concerns, the Committee considers it appropriate that the ANAO conduct an audit of the administration of the Regional Partnerships and Sustainable Region programs.[103]

1:1.18 Accordingly, the Senate Committee recommended that the ANAO audit the administration of the Regional Partnerships and Sustainable Regions Programmes, with particular attention to the case studies highlighted in its report.[104] On 8 November 2005, the Auditor-General advised the then Committee Secretary that, after considering the Committee's report, it had been decided that ANAO would conduct an audit of the Regional Partnerships Programme, but that the Sustainable Regions Programme would not be included in the scope of this performance audit. This was to provide for a more focused audit. An audit of the Sustainable Regions Programme is to be considered following completion of the audit of the Regional Partnerships Programme.

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[103] Senate Committee Report, Finance and Public Administration References Committee, *Regional Partnerships and Sustainable Regions programs*, October 2005, pp. 205 and 206.

[104] ibid, Recommendation 16, p. 206.

1:1.19 Advice of the audit was also provided in November 2005 to the then Minister for Transport and Regional Services, the relevant Shadow Ministers and the then Chair of the Joint Committee of Public Accounts and Audit. In this correspondence, the Auditor-General advised that:

> We envisage that the audit methodology for the Regional Partnerships Programme will include examining applications and grants in relation to a representative sample of Area Consultative Committees. This approach will provide a sound basis for identifying and assessing the procedures and practices that have been adopted across the Programme as a whole. It will also enable us to address the Committee's recommendation that we pay particular attention to the issues raised by the case studies highlighted in the Committee's report. Specifically, we will be able to assess the extent to which those issues are representative of the broader administration of this Programme.

Audit objective and scope

1:1.20 The audit commenced in January 2006. It was conducted under section 15 of the *Auditor-General Act 1997*. Its objective was to assess whether the Regional Partnerships Programme has been effectively managed by DOTARS, including the processes by which:

- applications are sought, received and assessed;
- Funding Agreements with grant recipients are developed and managed; and
- DOTARS monitors and assesses the achievement of project and programme outcomes.

1:1.21 The audit scope included the overall administration of the Programme. This included examination of all Ministerial funding decisions taken over the first three years of the Programme, ending 30 June 2006. This timeframe included the first seven months of operation of the Ministerial Committee. The audit analysed changes in administrative procedures and practices throughout the life of the Programme, including the period since the Ministerial Committee was formed, as well as those changes made as a result of the audit.

1:1.22 The audit also examined the assessment, approval and management processes applied to 278 successful and unsuccessful grant applications made by proponents located in a representative sample of 11 ACCs (representing

20 per cent of ACCs).[105] The audit sample included approximately 20 per cent of projects approved for funding during the three years examined, as well as grants relating to commitments made during the 2004 election campaign that were allocated for administration through the Regional Partnerships Programme. This involved examining records held by both DOTARS and the ACCs. It also involved inspecting a selection of projects funded under the Regional Partnerships Programme, and consultation with organisations and individuals that applied for grants.

1:1.23 Audit fieldwork was conducted largely between January and October 2006 and included:

- examination of the records held by DOTARS National Office of the decision-making process applied in respect to 1 413 funding decisions made to 30 June 2006[106];
- visits to, and examination of the records held by, seven DOTARS Regional Offices (in Brisbane, Townsville, Adelaide, Perth, Wollongong, Bendigo and Melbourne) in relation to the assessment and, where relevant, contract management documentation in respect of 345[107] applications in the audit sample of 11 ACCs. These applications represented 18 per cent of all applications made to the Programme to 30 June 2006;
- obtaining and examining records in respect to 36 election commitments made during the 2004 election campaign that were allocated to be funded through the Regional Partnerships Programme;
- visits to, and examination of records held by, 11 ACC offices in Toowoomba, Rockhampton, Adelaide, Mount Gambier, Broome, Geraldton, Mandurah, Wollongong, Echuca, Ballarat and Melbourne. ACC fieldwork involved examination of documentation relating to the ACC's dual roles of facilitating and assisting the development and

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[105] The 11 ACCs in the audit sample were selected at random. They are: Southern Inland Queensland; Central Murray; Central Highlands; Kimberley; Melbourne's West; Illawarra; Mid West Gascoyne; Limestone Coast; Central Queensland; Adelaide Metropolitan; and Peel.

[106] This figure includes funding decisions made in respect to 34 projects that were the subject of election commitments made during the 2004 election campaign. It does not include decisions involving variations to already approved projects, such as increases in the amount of funding approved. In the period examined by ANAO, such variations also required Ministerial approval.

[107] This figure represents the 278 successful and unsuccessful applications plus 67 applications that were withdrawn during the assessment process.

submission of applications, and the provision to the Ministerial decision-maker(s) of recommendations and priority ratings as to whether a particular application should be funded. Consultation was also undertaken with the Executive Officer of each ACC and, in some cases, the ACC Chair; and

- site visits to 92 projects in Queensland, South Australia, Western Australia, New South Wales and Victoria between February and June 2006.

1:1.24 Between April 2006 and September 2007, 21 audit Issues Papers were provided to DOTARS. The purpose of the Issues Papers was to confirm the accuracy and completeness of the information and audit analysis included in them and to obtain departmental views on conclusions reached, as an input to the preparation of the proposed audit report to be issued under Section 19 of the Auditor-General Act. An advance version of the proposed audit report was provided to DOTARS in September 2007 in order to afford the department a further opportunity to comment prior to issuing the formal proposed report.

1:1.25 The formal proposed report was issued in October 2007 to DOTARS and to the Ministers who have, or have had, responsibilities under the Programme. Consistent with the requirements of the Auditor-General Act, DOTARS and Ministers were provided with a period of 28 days in which to provide any comments on the proposed report. In addition, for natural justice reasons, relevant funding recipients (including each of those that are the subject of a published ANAO case study) named in the main report or included in project case studies were provided with relevant extracts, as was the Department of Finance and Administration (Finance) in relation to aspects of the audit report that related to the Commonwealth's financial framework.

1:1.26 A response was received by the due date from DOTARS, Finance, one former Minister and various funding recipients. These comments were considered in preparing the final report of this audit, including through appropriate incorporation into the relevant areas of the report. The Auditor-General Act requires the final report to be tabled as soon as practicable after it has been prepared.

1:1.27 The audit was conducted in accordance with the ANAO Auditing Standards, at a cost to the ANAO of approximately $1 025 000.

Case studies

1:1.28 In the report of its inquiry, the Senate Committee examined in detail the circumstances surrounding the application, assessment, approval and announcement of Regional Partnerships grants for six projects, as follows:

- RP00341—Beaudesert Rail;
- RP01028 and RP01109—Tumbi Creek Dredging;
- RP01207—Gunnedah Grains to Ethanol Project;
- RP01319—A2 Milk Processing;
- RP01843—EC Australian Equine and Livestock Centre[108]; and
- RP01055—National Centre in Science, Information Communication Technology and Mathematics for Rural and Regional Education.

1:1.29 Five of the 11 chapters in the Committee's report were dedicated to the examination of these six projects (the last two listed projects were examined in a joint chapter concerning Regional Partnerships Programme grants in the Electoral Division of New England). The Senate Committee concluded that:

> These case studies point to serious deficiencies in the transparency and accountability of processes by which projects are brought forward, considered and approved for funding under the Regional Partnerships Programme. In some cases, evidence points to undue political pressure to expedite grant approval and announcement at the detriment of sound application development and assessment. While the Committee recognises that many beneficial projects have been funded under the programme, the case studies involving grants totalling in excess of $15.5 million show that there is significant scope for improving the administration, accountability and transparency of the Regional Partnerships Programme.[109]

1:1.30 A case study approach to examining the administration of discretionary grants programmes was also used by the Senate Committee in its 2003 inquiry

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[108] This project was one of the six icon projects announced during the 2004 election campaign in the Government's *Investing in Stronger Regions* election policy document. At the time the election commitment was announced, DOTARS had received and was assessing an application for $6 million in Regional Partnerships funds for project RP01300 Australian Equine and Livestock Centre. Part 2 of this audit report relating to Application Assessment and Approval Processes explores issues concerning the processes through which election commitment projects were assessed and approved for Regional Partnerships funding, including where a Regional Partnerships application had already been submitted to the department.

[109] Senate Committee Report, op. cit., p. xii.

of the circumstances surrounding the approval of funds under the Dairy Regional Assistance Programme (one of the predecessor programmes to Regional Partnerships) for a project in Moruya on the New South Wales south coast. In the report of that inquiry, the Committee concluded that:

> Investigation of the assessment and approval of this particular grant has highlighted a number of weaknesses in the administration of this Commonwealth funded program.[110]

1:1.31 In this context, the value of case studies in informing an assessment of the administration of discretionary grants programmes is well recognised. However, with respect to the Regional Partnerships Programme, the Government Response to the Senate Committee report commented that:

> Six case studies in the Report from which the majority of conclusions have been drawn are atypical of most projects funded.[111]

1:1.32 In undertaking this audit, ANAO has had regard to the Senate Committee's approach to examining the administration of discretionary regional assistance grants programmes; the Committee's request that the audit pay particular attention to the case studies highlighted in its report; and the Government response to the Committee's report. In addition, during the course of the audit, DOTARS sought feedback from ANAO in relation to the types of issues that were being identified with respect to the projects being examined.

1:1.33 Accordingly, between April 2006 and April 2007, ANAO provided DOTARS with 22 case studies involving 24 Regional Partnerships projects[112] included in the random sample of 11 ACCs. The case studies were illustrative of the types of issues identified in respect to the application development, assessment, approval and/or contract management processes undertaken in respect to many of the projects examined by ANAO.[113] They covered grants

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[110] Senate Finance and Public Administration References Committee, *A Funding Matter Under the Dairy Regional Assistance Program*, June 2003, p. ix.

[111] Australian Government, *Senate Report Finance and Public Administration References Committee: Regional Partnerships and Sustainable Regions Programmes—Government Response*, November 2006, p. 1.

[112] In two of the case studies, two applications were examined because an initial application for funding was not approved but a subsequent application for the same or a similar project was approved for funding.

[113] In preparing four of the case studies, ANAO engaged treasury experts Applied Financial Diagnostics to advise on the identification, analysis and management of financial and related risks.

approved over the first three years[114] of the Regional Partnerships Programme to 30 June 2006, a range of project localities and a number of Regional Offices.[115] In this respect, the various parts of this audit report explicitly refer to the case studies, as well as other projects that exemplify or illustrate a particular point. Twelve of the case studies have been published in full in Volume 3 of this audit report, together with details on two examples of projects approved prior to a departmental assessment being undertaken. Table 1:1.1 lists the case studies undertaken and identifies those that were published. The case studies that have not been published in full are drawn on in relevant parts of the audit report, together with the results of broader audit analysis of the administration and delivery of the Programme.

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[114] In selecting projects to be case studied, ANAO was conscious of issues raised by the Senate Committee about the significant increase in grant approvals in the months leading up to the 2004 Federal election. Having regard to the likelihood of a Federal election being held later in 2007, it was expected that the case studies of projects approved in the lead up to the 2004 election would provide lessons for the department in its current administration of the Programme.

[115] In considering the body of ANAO case studies, it is also relevant that DOTARS was offered the opportunity to suggest further projects to be the subject of an ANAO case study. The department did not provide ANAO with any suggestions.

Table 1:1.1

Projects that were the subject of ANAO case studies

Published case studies	
RP00203 & RP00740	Upgrade Sawmilling Capacity to Meet Export Demand AUSGUM Furniture Expansion
RP00622	Jarrahdale Heritage Park
RP00769	Redevelopment GSLSC
RP00908	Lakes Creek Upgrade
RP01101	Beef Australia 2006
RP00936	Horse Australia 2005
RP01133	Carnarvon Recreational Marina
RP01364	Country Homes and Cabins
RP01365	Undercarriage Remanufacture Facility
RP01459	Sakai/CIC Business & Export Development
RP01578	Aerox Odour Control Filters for Grape Marc Separator Dryer
RP02074	Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith
Other case studies	
RP00199	Melton Shire Equine Park Feasibility Study
RP00289	Australia’s National Mineral Water and Bathhouse Facility
RP00398	Multi-Purpose Recreation & Aquatic Centre
RP00886	Caliguel Lagoon Redevelopment
RP00891	Rockingham Beach Waterfront Village—Development of a Village Green
RP00963	Winton Aquatic Centre
RP01016	Design and Construction of an Interpretive Centre for Carnarvon One Mile Jetty
RP01216	Organic Chicken Processing
RP01452 & RP02039	Baralaba Swimming Pool Complex
RP02237	Tambo Multipurpose Centre

Source: ANAO analysis.

Programme improvement initiatives

1:1.34 In July 2006, revised Regional Partnerships Programme Guidelines were finalised and issued. The revised Guidelines included significantly expanded guidance to potential applicants in respect to a number of aspects of the Programme and its administration, including regarding the assessment process and criteria. Nonetheless, the revised Guidelines did not alter the essential criteria taken into account in the departmental assessment of an application.[116]

1:1.35 In December 2006, DOTARS wrote to the ANAO asking that ANAO:

> note that substantial improvements are being made to the Programme to ensure that the processes applied throughout a project's 'life cycle' are consistent with the revised Guidelines of the Programme as approved by the Minister in July 2006 and compliant with the FMA Act and other administrative law requirements identified in your issues papers to date. We are also incorporating sound risk management strategies to meet the principles of the ANAO Better Practice Guide to the Administration of Grants and Implementation of Programme and Policy Initiatives released in October this year.
>
> While the attached list endeavours to be comprehensive in terms of the range of initiatives we have either undertaken or commenced, it should be noted that many of these activities are still a work in progress.
>
> As I am sure you can appreciate the full Programme has undergone a number of changes since it commenced in July 2003 and is continuing to respond to Government policy requirements and improvement [*in*] its overall administration.

1:1.36 Further advice in this regard was provided to ANAO by DOTARS in April and May 2007. In addition, during May and June 2007, DOTARS provided ANAO with:

- copies of two sections of a revised Internal Procedures Manual that had been issued to staff, together with drafts of the remaining sections of the revised Internal Procedures Manual;
- copies of the training manuals that related to those sections of the revised Internal Procedures Manual that had been issued to staff;
- a copy of the list of questions for applicants that were to be included with the revised application form for a new online grants application system;

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[116] In this respect, the revised Guidelines made it explicit that two aspects previously addressed through the eligibility criteria (competitive advantage and cost shifting) would now be considered as assessment criteria.

- a copy of a recently developed reporting pack to assist funding recipients meet their reporting obligations under their Funding Agreement; and
- a copy of a draft of a revised Long Form Standardised Funding Agreement.

1:1.37 The assessment, approval and management processes applied in respect of all applications examined in this audit were considered against the versions of the Programme Guidelines and Internal Procedures Manual that were applicable at the relevant time.

Part 2: Application Assessment and Approval Processes

2:1 Introduction to Application Assessment and Approval Processes

This chapter provides an overview of the Regional Partnerships Programme application assessment and approval processes and the findings and recommendations of the Senate Committee in that area. It also provides an outline of the content of the chapters in this part of the audit report.

Background to approval process

2:1.1 A common feature of many government grant programmes is the use of structured funding rounds, in which applications are called for projects with a particular focus and, often, within a nominated minimum or maximum financial value. There is usually an identified limit on the total amount of funding that is available to be allocated under each funding round.

2:1.2 Under that process, potential applicants are required to submit their application by a nominated closing date. Competing applications are then assessed and ranked in priority order, based on pre-determined eligibility and assessment criteria. Those recommendations will than be considered by the relevant decision-maker, which may be the responsible Minister or authorised official, at times with the assistance of an advisory committee. Successful applicants are subsequently announced, often in a single announcement.

2:1.3 The regional programmes that were amalgamated into the Regional Partnerships Programme had adopted a variety of application assessment and approval approaches.

2:1.4 For example, the Regional Assistance Programme conducted three to four approval rounds each financial year. Applications could be submitted at any time, but funding would only be made available at the completion of each successive approval round. However, approval could be granted out of round for projects considered to be time crucial.

2:1.5 The Regional Assistance Programme had been transferred to DOTARS from the then Department of Employment, Workplace Relations and Small Business in November 2001 (DEWRSB). Prior to April 1999, projects had been assessed and approved at the state office level on a continuous basis. From April 1999, the delegation for approval of projects was transferred to National

Office. At the same time, continuous assessment was replaced with regular assessment rounds. This change was made because continuous assessment of projects by state offices had resulted in entrenched problems, including:

- under-expenditure across the programme and persistent end of financial year peaks;
- blurring of roles between ACCs and state offices, low profile of the programme and continual project assessment detracting from contract management functions; and
- lack of centralised programme reporting and record-keeping.

2:1.6 Final approval of applications by national office and regular assessment rounds were introduced to address these issues, and to increase certainty for the department and ACCs in programme planning, expenditure and promotion.

2:1.7 Similarly, under a number of the structural adjustment programmes subsumed into Regional Partnerships, each region received a maximum allocation and projects were ranked and funded according to the priorities of the region.

2:1.8 By way of comparison, the Regional Solutions Programme adopted a rolling assessment process, with assessed projects being forwarded in batches, approximately every fortnight, for Ministerial approval (once they had been considered by the Regional Solutions Programme Advisory Committee). Projects were also funded on a first-come-first-funded basis under the Rural Transaction Centres programme.

Continuous assessment process under Regional Partnerships

2:1.9 The awarding of Regional Partnerships grants has not been conducted through structured funding rounds.[117] Applications may be submitted at any time, either electronically or in hard-copy form. There are also few limits on the type of project that can be considered for funding or on the type of entity

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[117] This report has been prepared on the basis of the administrative arrangements that existed in relation to the Regional Partnerships Programme until September 2007. On 12 September 2007, the Minister for Transport and Regional Services announced changes to the Programme including the introduction of structured funding rounds for the consideration of all applications from private enterprise applicants. This process had yet to commence when this audit report was in preparation but, based on application activity in the first three years of the Programme, is likely to affect some 12 per cent of applications with the remaining 88 per cent of applications continuing to be assessed individually, on a continuous basis.

that may apply.[118] Until September 2007, there was also no minimum or maximum amount of funding that could be sought.[119]

2:1.10 In this respect, a significant focus in the development of the new regional programme was the provision of maximum funding flexibility. However, apart from informal internal discussions, there was no documented analysis of the respective merits in terms of programme effectiveness and administrative efficiency of funding rounds in comparison to other approaches. Nor was there a documented formal decision to adopt a continuous assessment process.[120]

2:1.11 Most applications have been assessed individually by the department regarding the extent to which they satisfied the eligibility and assessment criteria set out in the published Programme Guidelines applicable at the time. Departmental assessments have, in turn, been brought forward for Ministerial consideration at any time.

2:1.12 Applicants are encouraged by the Regional Partnerships Guidelines to involve their local ACC in the development of their project proposal and application. However, applicants are not precluded from submitting applications to the department without any ACC involvement.

Consideration of introducing funding rounds

2:1.13 On 26 October 2005, DOTARS provided advice to the then Minister for Transport and Regional Services in relation to a number of issues he had raised regarding administration of the Programme since becoming Minister in July

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[118] Entities that are not eligible to apply for funding are: individuals, organisations that are not incorporated under State or Commonwealth legislation (for example, the *Corporations Act 2001),* ACC, Australian or State government departments, and lobby groups or other organisations seeking funding to support political activities. Also, although eligible to apply for Regional Partnerships funding, commercial enterprises are not eligible to request funding for planning, studies or research. However, organisations that are not incorporated under State or Commonwealth legislation can still apply for funding through the use of an eligible organisation acting as sponsor.

[119] As noted, a further change announced in September 2007 by the Minister for Transport and Regional Services was that the Regional Partnerships Programme would be restricted to projects that need funding of less than $1 million, with larger projects to be directed towards the new Growing Regions Programme.

[120] The only reference in the Taskforce's 2002 report to a preference for a continuous assessment process related to its proposal for a strategy for expediting decision-making for applications seeking less than $10 000. Known as the '*10 in 25*' strategy, it proposed that applicants seeking grants up to $10 000 be advised of the outcome within 25 working days of receipt in the department of a completed application form. In this respect, the Taskforce observed: '*10 in 25* requires resources available for assessment as applications arrive, as opposed to batching or rounds.' As this proposal was contingent on the delegation of decision-making authority to departmental officials (which, as is discussed in Chapter 2 in this part of the audit report, did not occur), it was not implemented.

2005. DOTARS noted that the Minister had expressed a concern regarding consistency in assessments, querying whether the same judgements were being made about like projects and whether quarterly batching of projects would make judgements about consistency more transparent.

2:1.14 In this respect, DOTARS advised the then Minister on the option of refocussing the Regional Partnerships Programme as a competitive program with funding rounds; clearer, more limited criteria; and funding recommendations made to the Minister by an Advisory Committee. DOTARS advised that, under that option, funding rounds would need to be frequent (at most monthly) to avoid the number of projects becoming too large to manage or delays unreasonable, and that this approach would generally be unable to support large numbers of small projects.

2:1.15 DOTARS further advised that Programme expenditure of $100 million per annum, would require approval of at least 500 projects a year (using current mean sizes) which would be manageable in 10 or 12 packages but unworkable as quarterly packages of over 100 projects. However, the basis for the department's conclusions was not documented, having regard to how funding rounds have operated effectively in other Commonwealth grants programmes (including programmes involving large number of applications).

2:1.16 The departmental advice did not closely examine the option of segregating or streaming the Programme (which has recently been announced), and no changes were made to the Programme's decision-making processes in this regard. The only related change was the introduction of a single assessment process in National Office which, as well as being directed at improving assessment times, was also an attempt to improve the consistency of departmental assessments and funding recommendations.

Assessment of applications

2:1.17 Potential applicants are advised of the criteria against which their application will be assessed through the publicly available Regional Partnerships Guidelines, which are approved by the responsible Minister(s).

2:1.18 The original (July 2003) Guidelines, approved by the then Minister for Transport and Regional Services and the then Minister for Regional Services, Territories and Local Government in May 2003, advised potential applicants that:

> To ensure the most effective use of Regional Partnerships funds, priority will be given to those projects that demonstrate value for money by achieving their

outcomes through the most efficient and effective means, securing appropriate funding from other sources and/or have exhausted other funding options.

Value for money will be determined taking into account the total request for Regional Partnerships funding and meeting the following assessment criteria:

a) Outcomes
b) Partnerships and Support
c) Project and Applicant Viability.

2:1.19 Various amendments to the Guidelines were made over time. In terms of project assessments, two of the more substantive changes related to:

- the provision that projects that could not obtain or that were in the process of obtaining the relevant approvals and licences to progress were ineligible for funding, being amended to provide that such projects will 'not generally be considered'. This revision to the Guidelines was approved by the acting Minister for Transport and Regional Services on 15 April 2004 and included in revised Guidelines issued on 31 May 2004; and
- the inclusion from the July 2005 version of the Guidelines of expanded guidance to applicants on retrospective costs. Although all versions of the Guidelines had identified project proposals that were requesting funding for retrospective costs as being ineligible, from July 2005 the Guidelines included the following advice:

> The Australian Government cannot fund retrospective costs in relation to a project. The Department of Transport and Regional Services defines retrospective funding as **funding to meet any expenditure, or commitment to expenditure, incurred prior to the Funding Agreement being signed by both parties.** [*Emphasis as per original*]

DOTARS did not seek Ministerial endorsement of this amendment.

2:1.20 On 27 June 2006, revised Programme Guidelines were approved by the Ministerial Committee that had been established to administer the Programme in November 2005. The Guidelines were issued in July 2006 for application from the end of August 2006.[121] The revised Guidelines included considerably expanded advice to potential applicants regarding the administration of the Programme, including on how applications for funding would be assessed.

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[121] Media Release, The Hon Warren Truss MP, Minister for Transport and Regional Services, *New Guidelines for Regional Partnerships Take Effect*, 142WT/2006, 25 August 2006.

2:1.21 In relation to the identified assessment criteria, the main change under the revised Guidelines was the inclusion of competitive advantage and cost shifting as criteria that would be considered, where relevant, in the assessment of applications. Previously, these considerations were expressed as threshold eligibility criteria. Further, partnership funding and local support were now to be assessed as separate criteria, compared to the previous approach of forming an overall assessment against the 'partnerships and support' criterion.

2:1.22 An updated version of the revised Guidelines was issued in July 2007. The most substantive change made in this version compared to the previous version was the omission of the following advice to potential applicants, which had been included in the 'Program Snapshot' section at the start of the July 2006 version:

> However, meeting the assessment criteria does not guarantee funding. Applications are assessed individually on their merits on a case-by-case basis and a final funding decision is made by a committee of Ministers.[122]

2:1.23 As ANAO examined the assessment and management of applications received over the first three years of the Programme to 30 June 2006, the revised Guidelines did not apply to any of the applications examined in this audit. However, where relevant in respect to issues examined in the course of the audit, ANAO has provided comment on aspects of the revised Guidelines.

SONA procedures

2:1.24 In establishing the Regional Partnerships Programme in 2003, the then Minister for Transport and Regional Services agreed to the notional allocation of a proportion of funds to a 'strategic opportunities fund'. The purpose of the strategic fund was to allow the government to respond quickly and easily to a diverse range of situations, without the need to establish new administrative arrangements, such as a new programme. The fund was subsequently renamed the Strategic Opportunities Notional Allocation (SONA).

2:1.25 The broad parameters for the approval of funding for projects through SONA, approved by the responsible Ministers in September 2003, provided that projects or initiatives funded under the SONA procedures must be consistent with the goals and priorities of either Regional Partnerships or the

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[122] DOTARS, Regional Partnerships Guidelines, July 2006, p. iii. Earlier versions of the Guidelines had also advised potential applicants that 'meeting the assessment criteria does not guarantee funding' (for example, Regional Partnerships Guidelines, August 2005, p. 7).

Stronger Regions, A Stronger Australia Statement and must meet the majority of Regional Partnerships selection criteria. Proposals would be considered if they met a broad national need, such as being of national or cross-regional significance; a whole-of-government response; or responding to a significant event, such as a regional economic or social crisis, where support was not available from existing relief programmes. In addition, the procedures provided that SONA could be used to address programme constraints of a more administrative nature, including to allow the approval of funding for a project or initiative that did not meet some specific part of the Guidelines or eligibility criteria. The SONA procedures were not publicly available.

Departmental assessment process

2:1.26 The assessment of applications against the criteria set out in the Programme Guidelines is undertaken by DOTARS. Until March 2006, most applications were allocated to the relevant Regional Office for assessment. Once complete, the Regional Office's assessment and resulting funding recommendation was allocated to National Office for a quality assurance review. Where National Office disagreed with the Regional Office's assessment or recommendation, the Regional Office would be asked to either provide advice supporting its position or revise the assessment or funding recommendation. National Office would then determine the final position that would be presented for Ministerial consideration.

2:1.27 On occasion, projects seeking funding were considered in National Office only. This primarily related to applications that were to be considered for funding under the SONA procedures or where either the applicant, department or Ministerial decision-maker had identified an application as being particularly time-critical.

2:1.28 On 13 August 2004, the then Minister for Transport and Regional Services agreed to a proposal that applications seeking $25 000 or less in Regional Partnerships funds be provided with a simplified application form and be subjected to a simplified ACC comment and departmental assessment process. This was one of two measures recommended by the department in response to significant delays that had been experienced in assessing many Regional Partnerships applications. The threshold for the application of the simplified assessment process was increased to $50 000 in May 2007.

2:1.29 The department's other proposal, which would have resulted in decision-making authority in respect to applications with serious deficiencies being delegated to officials, was not agreed by the then Minister.

2:1.30 From mid-March 2006, all applications for Regional Partnerships funding have been assessed in National Office in what has been termed a 'single assessment' process. The relevant Regional Office is asked to provide input in relation to a standard set of questions relating to local knowledge that may be relevant to the assessment, but National Office formulates the project assessment and funding recommendation that is submitted to the Ministerial Committee.

ACC comments and recommendation

2:1.31 Regardless of whether the relevant ACC was involved in the development of an application, the usual process is for applications to be allocated to the ACC shortly after being submitted to DOTARS for the purpose of the ACC providing its comments and recommendation regarding the priority of the project for funding. The ACC's overall comment and recommendation are to be included in the assessment summary provided by DOTARS to the Ministerial decision-maker for their consideration.

Ministerial decision-maker

2:1.32 Under the administrative arrangements approved for the Regional Partnerships Programme, the responsible Ministers have declined to authorise DOTARS officials to approve or not approve any Regional Partnerships applications. Accordingly, the final decision on whether an application will receive funding, how much funding will be provided, the purpose for which it can be used and the basis on which this will occur, has been taken at the Ministerial level.

2:1.33 Between July 2003 and November 2005, decisions on applications were taken by a single Minister. The Minister for Transport and Regional Services is responsible for the Regional Partnerships Programme but, until July 2005, usually only made funding decisions in relation to high value grants. Primary carriage for the day-to-day administration of the Programme was allocated, at various times, to a junior portfolio Minister or the Parliamentary Secretary to the Minister for Transport and Regional Services.[123] The exception was where a project was located in the electorate of the responsible Minister or Parliamentary Secretary, in which case the departmental assessment and funding recommendation was submitted to the Minister for Transport and Regional Services for decision.

2:1.34 The position of Parliamentary Secretary to the Minister for Transport and Regional Services was abolished in July 2005, as part of the re-allocation of Ministerial responsibilities following the resignation of the Hon John Anderson MP as Minister for Transport and Regional Services. Between July 2005 and November 2005, the Hon Warren Truss MP was the decision-maker for the Programme as Minister for Transport and Regional Services.

Ministerial Committee

2:1.35 On 31 October 2005, the then Minister advised the Prime Minister that:

> Having observed the operation of the program as Minister for Transport and Regional Services, I consider that there would be merit in adjusting aspects of the program's operation to improve its effectiveness and to address public criticisms. I believe it is also important for the Government to do more to communicate its broad policy priorities for the program to the community and to our Area Consultative Committees (ACCs)
>
> There is a need to streamline the process for approving RP projects so that projects can be approved more quickly…

2:1.36 In addition to proposing a series of changes to improve the effectiveness and governance of ACCs, and the adoption of the single assessment process to improve the consistency of recommendations made to Ministers, the then Minister proposed the formation of a Ministerial Committee to take decisions on Regional Partnerships applications, as follows:

> The value of the RP programme lies in its ability to provide funding to meet the broad needs of communities which would otherwise remain unfunded. The quality of projects which are submitted for my approval can, however, vary considerably and I am concerned that the Minister's decisions on projects

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[123] Where more than one Minister is appointed to administer a Department of State, each Minister has the power to independently administer the department and its legislation. Arrangements for the allocation of responsibilities between the Ministers are made at the political level. Since the March 2000 amendment of the *Ministers of State Act 1952* and the repeal of the *Parliamentary Secretaries Act 1980*, Parliamentary Secretaries have been appointed in the same way as Ministers and are required to be appointed as Federal Executive Councillors, under section 64 of the Constitution. This enables them to act for or on behalf of a Minister including in the exercise of statutory functions.

> are open to the interpretation that they have been made for political reasons and not on the merits of the project. To address this issue, I propose that:
>
> - RP projects where funding greater than $25 000 is being sought be considered for approval by a Ministerial Committee comprising the Minister for Transport and Regional Services, the Minister for Local Government, Territories and Roads and a nominee of the Prime Minister.
> - The Ministerial Committee would meet regularly and would also be responsible for developing and approving program guidelines and administrative arrangements. The committee would also assess appeals on application decisions.
> - As Minister for Transport and Regional Services, I would continue to assess eligible projects under the fast track component of Regional Partnerships to a value of $25 000 or less.

2:1.37 On 9 November 2005, the Prime Minister advised the then Minister that:

> I support the establishment of a Ministerial Committee to take decisions on projects on the basis of the departmental recommendations and to approve programme guidelines and administrative arrangements. At this stage, however, I consider that the Committee would also consider the projects under $25 000, albeit as a streamlined, 'fast tracked' component of the Programme. I would like to nominate my Parliamentary Secretary, Mr Gary Nairn MP to the Committee.

2:1.38 On 27 January 2006, Mr Nairn became Special Minister of State, responsible for the administration of relevant matters within the Finance and Administration portfolio, but continued as a member of the Regional Partnerships Ministerial Committee. In September 2006, the Prime Minister announced that Minister Truss and the then Minister for Trade, the Hon Mark Vaile MP, would swap Ministerial responsibilities. Consequently, Minister Vaile took over responsibility for the Regional Partnerships Programme and became Chair of the Ministerial Committee.

2:1.39 Table 2:1.1 sets out the Ministers and Parliamentary Secretaries that have had responsibility at various times for the approval or otherwise of grant applications to the Regional Partnerships Programme.

Table 2:1.1

Ministerial decision-makers under the Regional Partnerships Programme

Name	Capacity in which served as decision-maker	Period
Hon John Anderson MP	Minister for Transport and Regional Services (portfolio Minister with overall responsibility)	1 July 03 to 6 July 05
Hon Wilson Tuckey MP	Minister for Regional Services, Territories and Local Government	1 July 03 to 7 Oct 03
Senator the Hon. Ian Campbell	Minister for Local Government, Territories and Roads	7 Oct 03 to 18 July 04
Hon De-Anne Kelly MP	Parliamentary Secretary to the Minister for Transport and Regional Services	7 Oct 03 to 26 Oct 04
Hon Jim Lloyd MP	Minister for Local Government, Territories and Roads	18 July 04 to 29 Nov 05
	Member of Ministerial Committee as Minister for Local Government, Territories and Roads	30 Nov 05 to current
Hon John Cobb MP	Parliamentary Secretary to the Minister for Transport and Regional Services	26 Oct 04 to 6 July 05
Hon Warren Truss MP	Minister for Transport and Regional Services (portfolio Minister with overall responsibility)	6 July 05 to 29 Nov 05
	Member of Ministerial Committee as Minister for Transport and Regional Services	30 Nov 05 to 29 Sep 06
Hon Gary Nairn MP	Member of Ministerial Committee as nominee of Prime Minister – substantive position: Parliamentary Secretary to the Prime Minister	30 Nov 05 to 27 Jan 06
	Member of Ministerial Committee as nominee of Prime Minister – substantive position: Special Minister of State	27 Jan 06 to current
Hon Mark Vaile MP	Minister for Transport and Regional Services (portfolio Minister with overall responsibility)	29 Sep 06 to current
	Member of Ministerial Committee as Minister for Transport and Regional Services	
☐ Portfolio Minister	🟧 Junior Minister or Parliamentary Secretary	▨ Member of Ministerial Committee

Source: ANAO analysis.

Ministerial decision-making process

2:1.40 The process for Ministerial decision-making in respect to Regional Partnerships applications has undergone some changes over the course of the Programme, but the essential elements have remained constant. The steps generally followed are:

- the department's assessment is provided to the Minister(s), together with the department's recommendation as to whether the application should be funded or not, the amount of any recommended funding and any conditions DOTARS recommends should be attached to any funding. The material provided includes a description of the project and applicant, and notes the Federal electorate in which the project is located. The relevant ACC's summary comment and recommendation are also provided. For the first two years of the Programme, applications were usually submitted for Ministerial decision in batches (or packages). Some applications that were identified as being time-critical or requiring consideration by a different Minister (due to being located in the electorate of the usual Ministerial decision-maker) were submitted individually. Since mid-2005**,** applications have been submitted for Ministerial consideration on an individual basis, under individual covering Minutes;
- the Ministerial decision-maker(s) considers each application individually and indicates on the relevant assessment summary and/or covering Minute whether he or she agrees with the department's recommendation, including any recommended funding conditions. Where Ministers do not agree with the department, they will mark on the assessment summary and/or covering Minute whether funding is approved or not, the value of approved funding and any conditions attached to any funding. Alternatively, the Minister(s) may refer the application back to the department for further information, and then give the application further consideration prior to making a final decision; and
- applicants are then advised of the outcome. For approved applications, the Minister signs letters advising the applicant, the local Federal Member of Parliament (or duty Senator for projects that are in electorates held by a non-Coalition Member) and the Chair of the relevant ACC of the approval and any conditions that may be attached to the funding (for all approved projects this includes a requirement that the funding recipient enter into a Funding Agreement with the department). The letters are date stamped and dispatched by the Minister's Office. For not approved applications, a DOTARS official signs letters advising the applicant and relevant ACC Chair of the decision and the reasons for the non-approval of the application.

Ministerial Committee decision-making process

2:1.41 The introduction of the Ministerial Committee necessarily resulted in some changes to the decision-making process. In this respect, the Committee took the following decisions at its first meeting on 30 November 2005:

> **DECISION MAKING**
>
> 1. Decisions of the Committee shall by consensus (*sic*);
>
> 2. To avoid a possible conflict of interest if a project is in a Committee member's electorate they will not take part in the decision; and
>
> 3. Minister Truss will continue to sign the letters regarding successful projects.
>
> **PROCESS**
>
> 1. Ministers will endeavour to consider as many projects as possible "out of session" by a process under which:
>
> (a) Each Minute will be sent to Minister Truss's office for comment; and then
>
> (b) forwarded to Minister Lloyd's office for comment and signature;
>
> (c) forwarded to [*then*] Parliamentary Secretary Nairn's office for comment and signature; and
>
> (d) returned to Minister Truss's office for signature.
>
> 2. If there is agreement, Minister Truss will sign accompanying letters of advice and the Minute will be returned to the Department.
>
> 3. If there is not agreement, the Minute will be held in Minister Truss's office and the department will be advised to place it on the agenda for the next Committee meeting. The department will also be advised if Ministers require further information on any aspect of the applications.
>
> 4. At each meeting Committee members can then focus on resolving applications on which there has not been agreement.

2:1.42 In August 2007, DOTARS advised ANAO that, during the 20 June 2007 meeting of the Ministerial Committee, a minor change to its decision-making process was agreed such that a copy of the assessment documentation for each application is now forwarded to each Minister for their concurrent, rather than sequential, consideration. Each Minister records his decision on the covering Minute, which is returned to the department as a record of decision. As with the earlier process, where consensus is not achieved, the project is referred to the next meeting of the Ministerial Committee.

Senate Committee

2:1.43 The Senate Committee's report of its inquiry into the Regional Partnerships Programme was focussed to a large degree on the application assessment and approval processes applied in respect to the projects examined by the Committee. In relation to funding decisions and aspects of the exercise of Ministerial discretion, the Senate Committee concluded that:

> As described throughout the [*Senate Committee's*] report, the decision to fund or not fund RP projects is taken by the relevant minister and should be informed by at least two sources of advice: the advice of the department and the priority rating of the relevant ACC. Chapter 2 [*of the Committee's report*] noted that there have been a number of cases in which the minister's decision did not accord with the department's advice. As discussed in Chapter 3 [*of the Committee's report*], some stakeholders are of the view that funding decisions are too arbitrary and that due weight is not given to the relevant ACC's advice…
>
> In the Committee's view, RPP funding decisions currently lack transparency. While the Committee was informed that all funding decisions are auditable by the ANAO, documents informing the decision and recording the decision outcome are not open to public or parliamentary scrutiny. This is a fundamental gap in the accountability and transparency of the program and one that leaves RP vulnerable to perceptions of politicisation, if not exposed to political bias and circumvention of proper process. The Committee considers that accountability of RP funding decisions would be strengthened if basic information about the funding recommendations and decisions were open to public and parliamentary scrutiny.[124]
>
> The Committee believes that stronger measures need to be established to ensure that ministers remain at arm's length from decisions on applications for projects that are located in their electorates. This is essential for reducing the risk of a conflict of interest in funding decisions…[125]
>
> Concerns about the propriety of approval and announcement of RPP grants in the lead up to the 2004 federal election were a key reason for the establishment of this inquiry. A large proportion of grant approvals occurred in the three months leading up to the election announcement. Allegations of 'pork barelling' and that the programs had been used as election 'slush funds' demonstrate that these programs are currently open to perceptions of bias, particularly in the context of an election campaign. The Committee considers it

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[124] Senate Committee Report, op. cit., pp. 200–201.

[125] ibid., p. 208.

> appropriate that measures be put in place to improve the accountability of ministerial discretion in these programs during the lead up to an election. These measures may assist in avoiding perceptions that funding decisions are being made for party-political purposes.[126]

2:1.44 Reflecting this focus, ten of the Senate Committee's 26 recommendations related to assessment and approval processes. As illustrated by Table 2:1.2, the November 2006 Government Response noted one recommendation, agreed in part or in-principle to six and disagreed with three.

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[126] ibid., p. 209.

Table 2:1.2

Senate Committee recommendations relating to Regional Partnerships assessment and approval processes

Rec. Number	Senate Committee Recommendation	Government Summary Response
1	Cease the operation of the SONA guidelines.	Noted.
6	Biannual tabling in the Senate of approved Regional Partnerships grants, including a statement of the reasons for decisions that are inconsistent with the departmental or ACC recommendation.	Disagree.
7	Address inequities in the distribution of Regional Partnerships program funding.	Agree in part.
12	ACC recommendations be disclosed to applicants upon request.	Disagree.
17	Projects that cannot obtain or have not yet obtained relevant approvals or licenses not be eligible for Regional Partnerships funding.	Agree in part.
18	Strengthen competitive neutrality procedures, including the introduction of a procedure for potential competitors to lodge objections.	Agree in part.
20	No program funding be approved for projects that do not meet the Guidelines and fail other tests including proper due diligence.	Agree in part.
21	It become formal policy that ministers and their staff are kept strictly at arm's length from decisions on applications from their own electorates, including all relevant departmental advice.	Agree in part.
22	Ministers and Parliamentary Secretaries, and their staff, be prohibited from intervening in the assessment of grants.	Agree in principle.
23	Introduce procedures to apply to grant approvals and announcements from the 1 July preceding a general election, with the approval decision and announcement to be made in conjunction with the relevant Shadow Minister where the Minister's decision differs from the recommendation of the ACC or DOTARS.	Disagree.

Source: ANAO analysis of Senate Finance and Public Administration References Committee's October 2005 recommendations and the November 2006 Government Response.

Content of this part of the audit report

2:1.45 This part of the report is structured around the Programme's decision-making framework, as follows:

- Chapter 2 provides an overview of the accountability framework that governs the consideration and awarding of discretionary grants. It also examines the extent to which the basis for funding decisions has been documented to enable Ministers to readily demonstrate that decisions have been given in accordance with obligations under the financial framework and that applicants were treated equitably in accordance with the published programme parameters;

- Chapter 3 examines the processes relating to the approval of Regional Partnerships applications in the months leading up to 5:00 pm on 31 August 2004, when the caretaker conventions took effect prior to the 9 October 2004 Federal election;
- Chapter 4 analyses the provision of Regional Partnerships funding for projects that were the subject of a Coalition election commitment during the 2004 Federal election campaign;
- Chapter 5 examines the circumstances in which eligibility or assessment criteria set out in the published Regional Partnerships Programme Guidelines have been waived or not applied in respect to individual projects; and
- Chapter 6 discusses the extent to which the procedures that will be followed in deciding the outcome of Regional Partnerships grant applications have been documented and consistently applied.

2:2 Accountability for Funding Decisions

This chapter provides an overview of the accountability framework that governs the consideration and awarding of discretionary grants. It also examines the extent to which the basis for funding decisions has been documented to enable Ministers to readily demonstrate that decisions have been given in accordance with obligations under the financial framework and that applicants were treated equitably in accordance with the published programme parameters.

Background

2:2.1 Transparency and accountability for funding decisions was a concern of the Senate Committee in its inquiry into the Regional Partnerships Programme, as reflected by the following recommendation:

> The Committee recommends that a biannual statement be tabled in the Senate by the Minister representing the Minister for Transport and Regional Services, listing:
>
> - the Regional Partnerships program grants approved in the preceding six month period;
> - the Department of Transport and Regional Services' and Area Consultative Committee's recommendations; and
> - where the funding decision is inconsistent with the departmental and/or Area Consultative Committee recommendation, a statement of the reasons for that decision.[127]

2:2.2 The Government's November 2006 response to the Senate Committee report disagreed with that recommendation on the basis that:

> The Government is not persuaded that this proposal would improve programme accountability. The publication of advice concerning recommendations made to the Minister for Transport and Regional Services by departmental advisers and by other bodies such as ACCs is not supported. Publication of such advice would make it difficult for ACCs to provide a critical assessment of projects. This approach is consistent with long-standing practice in relation to the confidentiality of departmental advice to Ministers.

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[127] Senate Committee Report, op. cit., pp. 201–202, Recommendation 6.

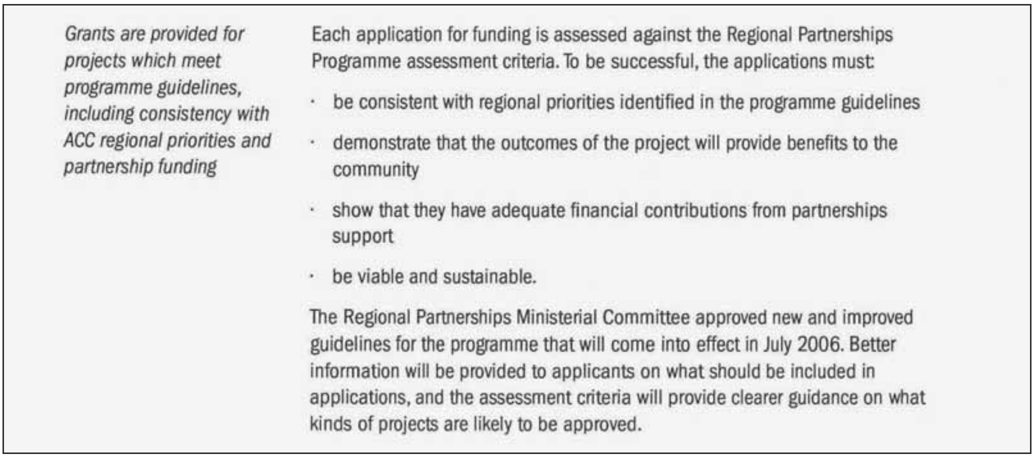
2:2.3 Notwithstanding that the Government did not accept the Senate Committee's recommendation for tabling of approval details with respect to individual grants, DOTARS' performance information framework for the Regional Partnerships Programme provides a basis for relevant information in this area to be published. Specifically, each of the 2005–06, 2006–07 and 2007–08 Transport and Regional Services Portfolio Budget Statements included a performance indicator for the Regional Partnerships Programme involving:

> Grants are provided for projects which meet programme guidelines, including consistency with ACC regional priorities and partnership funding.

2:2.4 However, as illustrated by the reporting in the department's 2005–06 Annual Report (shown in Figure 2:2.1), the department has not provided any reporting in terms of the extent to which approved projects had been assessed as meeting the Programme Guidelines, had been assessed as being consistent with ACC regional priorities or satisfied the partnership funding expectations. The absence of reporting that directly addresses this performance indicator is noteworthy, particularly in the light of evidence presented in this report that projects have been approved that did not satisfy the published Programme Guidelines.

Figure 2:2.1

DOTARS reporting against performance indicator relating to grant approvals



Grants are provided for projects which meet programme guidelines, including consistency with ACC regional priorities and partnership funding	Each application for funding is assessed against the Regional Partnerships Programme assessment criteria. To be successful, the applications must: · be consistent with regional priorities identified in the programme guidelines · demonstrate that the outcomes of the project will provide benefits to the community · show that they have adequate financial contributions from partnerships support · be viable and sustainable. The Regional Partnerships Ministerial Committee approved new and improved guidelines for the programme that will come into effect in July 2006. Better information will be provided to applicants on what should be included in applications, and the assessment criteria will provide clearer guidance on what kinds of projects are likely to be approved.

Source: DOTARS Annual Report 2005–06, p. 135.

Accountability framework

2:2.5 Commonwealth discretionary grants programmes involve the expenditure of public money[128] and are thus subject to applicable financial management legislation. Specifically, the *Financial Management and Accountability Act 1997* (FMA Act) provides a framework for the proper management of public money and public property. Many of the rules about how public money and property are to be dealt with are in the *Financial Management and Accountability Regulations 1997* (FMA Regulations[129]) and the *Finance Minister's Orders.*[130] The FMA Act, and associated Regulations and Orders, apply to Ministers and officials in Australian Government Departments of State, Departments of the Parliament and agencies prescribed in the FMA Regulations.

2:2.6 Part 4 of the FMA Regulations, *Commitments to spend public money*, sets out a hierarchy of requirements that must each be satisfied, in the appropriate sequence, in order for a commitment to spend public money to be lawfully entered into. In particular:

- Regulation 11, in concert with Regulation 3 in Part 1 of the Regulations, defines who may act as an approver of proposals to spend public money and in what circumstances;
- Regulations 9, 10 and 12 impose obligations on approvers to:
  - obtain prior written authorisation from the Finance Minister (or his delegate) where the grant would involve expenditure beyond available appropriations (Regulation 10);
  - not approve a spending proposal unless satisfied, after undertaking such inquiries as are reasonable, that the proposed expenditure is in accordance with the policies of the

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[128] Public money means money in the custody or under the control of the Commonwealth; or money in the custody of any person acting for and on behalf of the Commonwealth in respect of the custody or control of the money (including such money that is held on trust for, or otherwise for the benefit of, a person other than the Commonwealth) (Section 5, *Financial Management and Accountability Act 1997 (*FMA Act)). Public property is similarly defined in the Act.

[129] Section 65 of the FMA Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

[130] The Orders are made by the Finance Minister under Section 63 of the FMA Act.

  Commonwealth and will make efficient and effective use of the public money (Regulation 9)[131]; and
  - document the terms of the approval (but not the reasons) as soon as practicable after approval is given (Regulation 12); and
- Regulation 13 imposes obligations on any person who enters into a contract, agreement or arrangement under which public money is, or may become, payable.

2:2.7 The financial framework governing the entering into of commitments to spend public money reflects sound principles that have evolved over time. One of the key changes has related to the application of the financial framework to spending decisions taken by Ministers. In particular:

- the former (*Audit Act 1901*) framework identified the conditions that a 'person' was required to be satisfied of before approving a proposal to spend public money. By way of comparison, FMA Regulation 9(1) now requires an 'approver' to be satisfied in respect to specified conditions before approving a proposal to spend public money, with the term 'approver' now being defined in the legislation (FMA Regulation 3) as meaning a Minister, a Chief Executive or a person authorised by or under an Act to exercise a function of approving proposals to spend public money[132]; and
- Ministers are no longer empowered to issue a direction that prevents the Commonwealth from obtaining better value for the expenditure in all the circumstances.[133] Instead, under the current financial framework no spending proposals may be approved unless the approver

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[131] The terms of FMA Regulation 9 are to be read conjunctively such that there is a requirement for an approver to comply with all aspects in approving a spending proposal.

[132] The Drafting Instructions for the FMA Regulations indicate that the purpose of including the defined term 'approver', and the ultimate inclusion of a separate regulation in the form of Regulation 11, was to clarify who may approve proposals to spend public money and, at the same time, create a suitable control mechanism on officials.

[133] Specifically, former Finance Regulation 44B(c) required the person entering into a commitment requiring the expenditure of public money to undertake reasonable inquiries in order to be satisfied that, when the commitment was entered into:

- the Commonwealth was unable to obtain better value for the expenditure in all the circumstances; or
- if compliance with a direction by a Minister prevented the Commonwealth from obtaining better value for the expenditure in all the circumstances, the Commonwealth would obtain the best value that was possible while complying with the direction.

(including a Minister) is, after making reasonable inquiries, satisfied that the proposed expenditure represents efficient and effective use of public money. In terms of Ministers approving individual grants:

- where Ministers agree with a departmental recommendation, they are able to rely upon the department's assessment and advice as the basis for the reasonable inquiries they have made as required by FMA Regulation 9, so long as they are satisfied that departmental assessments are conducted with rigour;
- where Ministers decide to approve funding for a project that a department has recommended not be approved for funding[134], the FMA Regulations require that Ministers undertake reasonable inquiries to satisfy themselves that, notwithstanding the departmental assessment and advice, the spending proposal represents efficient and effective use of public money[135]; and
- where Minister's approve funding without the benefit of a departmental assessment and advice, or prior to obtaining an assessment and advice, the FMA Regulations require that they have undertaken their own inquiries in order to conclude that the spending proposal represents efficient and effective use of public money.

2:2.8 In this context, it is important to recognise that Ministers are not obliged to accept the recommendations of officials or other advisory bodies. There is also no requirement for Ministers to document the nature and extent of any inquiries they may undertake, or cause to be undertaken, to satisfy them that a proposed grant would make efficient and effective use of public money, including any reasons for taking a different position on applications than that recommended.

2:2.9 Nevertheless, where Ministers reach a different decision to that recommended it is recognised as being sound practice for them to document the basis for the decision taken. This aids programme transparency and public accountability and allows Ministers to demonstrate that the programme

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[134] Or to approve a greater amount of funding than has been recommended by the department, and/or to approve funding without one or more conditions recommended by the department.

[135] Alternatively, in some cases a Minister may advise that he or she is satisfied that the proposed expenditure meets the requirements of FMA Regulation 9 through having formed a different conclusion to that of the department based on the information presented.

parameters, as established by the government and advised to the public, were being met and all applicants treated fairly. This is reflected in the ANAO Administration of Grants Better Practice Guide, as follows:

> Individual Ministers or groups of Ministers may make decisions as to the selection of applicants. Where individual Ministers or groups of Ministers make administrative decisions or judgements involving the meritorious selection of one application over another, documentation recording the appraisal process and the reasons for selecting particular applications would aid program transparency and public accountability.[136]

Application to the Regional Partnerships Programme

2:2.10 Ministers make the final decision as to what, if any, funding will be approved for each Regional Partnerships application. This was reflected in DOTARS' advice to the Senate Committee during its inquiry, as follows:

> In accordance with the guidelines of the Regional Partnerships Program, the Department assesses applications and makes recommendations to the relevant Minister or Parliamentary Secretary. Based on this advice and the recommendations made by Area Consultative Committees (ACC), the relevant Minister or Parliamentary Secretary decides whether to fund or not fund the project; the level of funding to be provided; and whether any conditions should be applied to the funding.[137]

2:2.11 This allocation of approval responsibility for projects seeking Regional Partnerships funding was decided by Ministers as part of the initial implementation of the Programme. Specifically, the 2002 report of the Regional Programmes Reform Taskforce had recommended that authority to take decisions on lower value applications under the new Programme be devolved to DOTARS officials, as a strategy for improving the responsiveness and timeliness of the assessment of grant applications.[138] Accordingly, the department had recommended to Ministers that decisions on projects seeking over $150 000 be made by a Minister, with funding decisions on projects seeking less than this amount to be made by officials.

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[136] ANAO *Better Practice Guide—Administration of Grants,* May 2002, Canberra, p. 23.

[137] DOTARS, *Answers to Questions on Notice*, 23 September 2005.

[138] This reflected the approach adopted under two of the predecessor programmes subsumed into Regional Partnerships (Regional Assistance Programme and Dairy Regional Assistance Programme) under which DOTARS officials held a delegation to approve most grants made. In the case of Regional Assistance, exceptions were grants made under the Projects of National Significance component, which were approved by Ministers.

2:2.12 The then portfolio Minister had initially indicated agreement with the approach recommended by the department. However, the then Minister for Regional Services, Territories and Local Government indicated a preference that Ministers be the decision-makers in determining the outcome of all applications under the new programme. In this context, DOTARS advised the then portfolio Minister that:

> While there are some worthwhile efficiencies in the Department being the decision-maker, you could concede on this point on the basis that Minister Tuckey is the decision-maker on most of the grants and if he prefers to be the decision-maker that is his prerogative. You will still retain major policy oversight for regional programmes.

2:2.13 Subsequently, the then Minister for Transport and Regional Services and the then Minister for Regional Services, Territories and Local Government decided that a Minister would sign off on all Regional Partnerships funding applications.[139]

2:2.14 Notwithstanding that Ministers had decided to retain the approval authority for all grants under the Regional Partnerships Programme, DOTARS did not inform Ministers of the application of the financial framework to such decisions. In particular, Ministers were not advised of the obligations that arise under the FMA Regulations in relation to exercising the discretion to approve proposals to spend public money for individual grant applications, including that:

- any grant that would involve expenditure beyond available appropriations can not be properly approved without the Minister having been first authorised in writing to do so by the Finance Minister or a delegate (Regulation 10); and
- Ministers should not approve a grant without having first undertaken reasonable inquiries so as to be satisfied that the expenditure will be in accordance with the policies of the Commonwealth and make efficient and effective use of the public money (Regulation 9 refers). This is of particular relevance where Ministers wish to approve a grant that the department has not recommended for funding, based on the outcome

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[139] This decision was confirmed in August 2004 when the then Minister for Transport and Regional Services disagreed with a departmental recommendation that decision-making in respect to applications with serious deficiencies be delegated to a departmental official.

of its assessment process, or where the department has not undertaken an assessment.

2:2.15 In addition, the governance arrangements for the Programme developed prior to its commencement on 1 July 2003, and in place during the period examined by ANAO, did not promote compliance with the financial framework. Consideration of such issues was particularly important given the Programme involves Ministers making decisions on grant applications for varying amounts and project types on a continuous basis. The absence of explicit consideration of how to administer the Programme in a manner that promoted compliance with the financial framework has been reflected in:

- 487 projects being approved for funding between 1 July 2003 and 30 June 2006 without the necessary Regulation 10 authorisation, involving Regional Partnerships expenditure totalling $110.402 million (plus GST). The approval of grants without the necessary Regulation 10 authorisation continued throughout 2006-07; and
- notwithstanding the obligation placed on departmental officials by Regulation 13 for the Regional Partnerships Funding Agreement to accord with the terms of the Minister’s Regulation 9 funding approval, ANAO’s examination of 180 Funding Agreements executed by DOTARS with applicants in a sample of 11 ACCs identified a number of instances in which the Funding Agreement and/or variations subsequently agreed by DOTARS did not comply with the terms of the spending proposal approved by the Minister. This included:
  - instances in which the scope of the project specified in the Funding Agreement differed from that approved by the Minister(s);
  - instances of conditions placed on the Ministerial approval of Regional Partnerships funds not being specified in the Funding Agreement and/or not being complied with; and
  - over one quarter of the Funding Agreements prepared and executed by DOTARS in ANAO’s sample not reflecting the partnerships funding arrangements that assisted to form the basis of the Ministerial funding approval.

2:2.16 In June 2006, ANAO raised with DOTARS concerns about the level of compliance with the FMA Regulations in relation to the administration of the Regional Partnerships Programme. Between November 2006 and June 2007, DOTARS and Finance discussed a range of options for amending the Programme approval processes and Programme documentation. In June 2007, Finance advised DOTARS that, on 20 November 2006, it had received persuasive advice from ANAO that Ministers were approving spending proposals under FMA Regulation 9.

Appropriation authority and approval of funding

2:2.17 In June 2007, ANAO, Finance and DOTARS agreed that, to enable compliance with the FMA Regulations, future programme administration should be informed by the recognition that Ministers at the Ministerial Committee are approving spending proposals under FMA Regulation 9.[140] Also in June 2007, Finance received a specific proposal from DOTARS for a definitive strategy for revising approval processes and documentation.[141] In respect to this proposal, Finance advised DOTARS that:

> …it is clear to us that in the case of the Regional Partnerships programme, Ministers are considering proposals to spend public money when they look at the briefs. We have all agreed that a Minister is making the Regulation 9 approval at this time. (It is a Regulation 9 "moment" because consideration is solemnly being given to a specific spending proposal, underpinned by formal Departmental advice and relevant supporting information). This approval for a specific spending proposal would be made with the understanding that DOTARS will subsequently proceed to contract with the proposed recipient. That there may be circumstances where the contract is ultimately not signed does not negate the fact that the Minister has approved expenditure (under Regulation 9). Regulation 13 prevents DOTARS from entering any such arrangements without an approval under Regulation 9, and requires DOTARS to ensure that the final arrangement falls within the parameters of the Regulation 9 approval.

2:2.18 On 5 July 2007, the Ministerial Committee agreed to revised briefing material that is to be provided to it when considering the departmental assessment of a Regional Partnerships application. That revised material identifies the obligations on Ministers arising under the FMA Regulations,

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[140] This agreement was reflected in the Minister for Transport and Regional Services' 13 July 2007 letter to the Minister for Finance and Administration requesting a new authorisation under Regulation 10.

[141] In October 2007, DOTARS advised ANAO that this was the second proposal it had provided to Finance. In this respect, on 29 June 2007, Finance had advised DOTARS that: '…Finance can only offer advice on specific proposals when they are actually received from agencies. I note that Finance received a specific proposal from DOTARS only a few days ago—on 25 June 2007—and provided a written response on 27 June 2007.'

including when considering approving funding for a project that has not been recommended by the department.

2:2.19 In addition, in response to a 13 July 2007 request from the Minister for Transport and Regional Services, on 23 August 2007 the Finance Minister provided an authorisation to the Ministers responsible for regional development to consider approving spending proposals in relation to the Regional Partnerships Programme. The Minister for Transport and Regional Services had proposed that Ministers be authorised to approve projects without a specified limit, on the proviso that DOTARS manages actual payments under the Programme within the relevant appropriations. This request was made to:

> …address the unique design and circumstances faced by the Regional Partnerships Programme. These unique characteristics include:
>
> - an ongoing approval process (without rounds) by a Ministerial Committee which approves projects, subject to my Department negotiating a satisfactory Funding Agreement with the applicant…

2:2.20 In providing this authorisation, among other things the Finance Minister:

- noted that the Regulation 10 authorisation did not remove the responsibilities on those approving spending proposals to be satisfied that the requirements for the expenditure of public money, as set out in the FMA Regulations, are met, particularly FMA Regulation 9;
- proposed that DOTARS and Finance review the arrangement within the next year in the light of experience, to determine whether the arrangements continue to be appropriate, and to revisit the question of a monetary limit for the authorisation; and
- proposed that the terms of reference for the further review of the Programme[142] have regard to the issues raised by the ANAO performance audit.

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[142] In the context of the Government's response to the October 2005 Senate Committee report, the Government agreed to assess the need for a further review of the Programme once the mid-term Programme evaluation was completed (which occurred in November 2006), the November 2005 changes to the Programme had been bedded down and the report of this ANAO performance audit became available.

Funding Agreement preparation processes

2:2.21 In terms of promoting greater compliance with FMA Regulation 13, in April 2007, DOTARS advised the Ministerial Committee that the ANAO audit findings had highlighted the need to obtain Ministerial approval for changes to the project parameters approved by Ministers. At this time, DOTARS sought a delegation from the Committee of the authority to approve minor project variations. The department advised the Ministerial Committee that:

> Delegating the ability for the Department to negotiate variations during the project implementation, within an agreed framework, will streamline programme management arrangements and enable the Department to more effectively execute its role as contract manager.

2:2.22 On 10 May 2007, the Ministerial Committee agreed to the proposal that it explicitly delegate to the department responsibility to approve minor project variations, providing that:

- total funding does not exceed the Regional Partnerships amount approved by Ministers;
- all conditions agreed by Ministers are implemented, either prior to a funding agreement being signed or as an explicit project milestone in the Funding Agreement that needs to be achieved prior to a first payment being made (with conditions relating to confirmation of co-funding being addressed as proposed in the next dot point); and
- the total level of the partner contributions remains at or above the percentages specified in the Guidelines (i.e. 50 per cent of total project costs (cash and in-kind) for community projects and 60 per cent of total cash contributions for commercial projects). This could involve changes to partners and dollar contributions within those limits.

2:2.23 The delegation relates to variations requested by successful applications both before and after the signing of a Funding Agreement. In all other respects, the Funding Agreement is required to comply with the terms of the spending proposal approved by the Ministerial Committee. In this respect, a revised Internal Procedures Manual issued to DOTARS staff in May 2007 emphasised the requirement for Funding Agreements to comply with the terms of the Ministerial approval. In particular, officials signing Funding Agreements are now required to certify to certain matters, including that:

- the Funding Agreement is for the same amount as that approved by the Minister(s);

- the Funding Agreement accurately reflects the overall project, and the purposes for which Regional Partnerships may be used within that project, as approved by the Minister(s); and
- conditions of approval identified by the Minister(s) that have not been met prior to entering into the Funding Agreement have been included in the Funding Agreement.

Recommendation No.1

2:2.24 ANAO recommends that, in the design and implementation of discretionary grants programmes, the Department of Transport and Regional Services further strengthen its administrative processes, and provide relevant advice to responsible Ministers in relation to:

(a) the statutory obligations relating to the approval and payment of grants arising under the applicable financial management legislation; and

(b) options for implementing administrative arrangements that satisfy programme policy objectives while ensuring the efficient and effective compliance with all applicable statutory obligations.

DOTARS response

2:2.25 Agreed.

ACC priority ratings

2:2.26 The ACC Handbook states that:

> ACCs core business is the promotion and facilitation of projects under the *Regional Partnerships* programme, and they are a key provider of independent advice to the Department on all *Regional Partnerships* applications from their region.[143]

2:2.27 This dual role is reflected in a revised ACC Charter approved by the Ministerial Committee in May 2006, which states:

> A core function of ACCs is to be the primary point of promotion, project identification and application development for the *Regional Partnerships* program…, and the key provider of advice to the Australian Government on *Regional Partnerships* applications from their region.

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[143] ACC Handbook, June 2004, p. 6.

2:2.28 Regardless of whether the relevant ACC was involved in its development, once an application has been submitted to DOTARS, the usual procedure is for it to be allocated to the ACC for its consideration. For each such application, ACCs are asked to comment on a series of standard questions including the extent to which the project aligns with its Strategic Regional Plan and the Programme assessment criteria. TRAX (the database currently used by DOTARS to administer the Regional Partnerships Programme) provides for the ACC's comments on the project to be transcribed into the departmental advice provided to the Ministerial decision-maker. The ACC also rates each application against a four point scale in which:

- a rating of 1 represents Not Recommended;
- a rating of 2 represents Recommended with Low Priority;
- a rating of 3 represents Recommended with Medium Priority; and
- a rating of 4 represents Recommended with High Priority.[144]

2:2.29 Figure 2:2.2 sets out the ACC rating applied to all applications submitted between 1 July 2003[145] and 30 June 2006, in respect of which a Ministerial funding decision had been made by 30 June 2006.[146]

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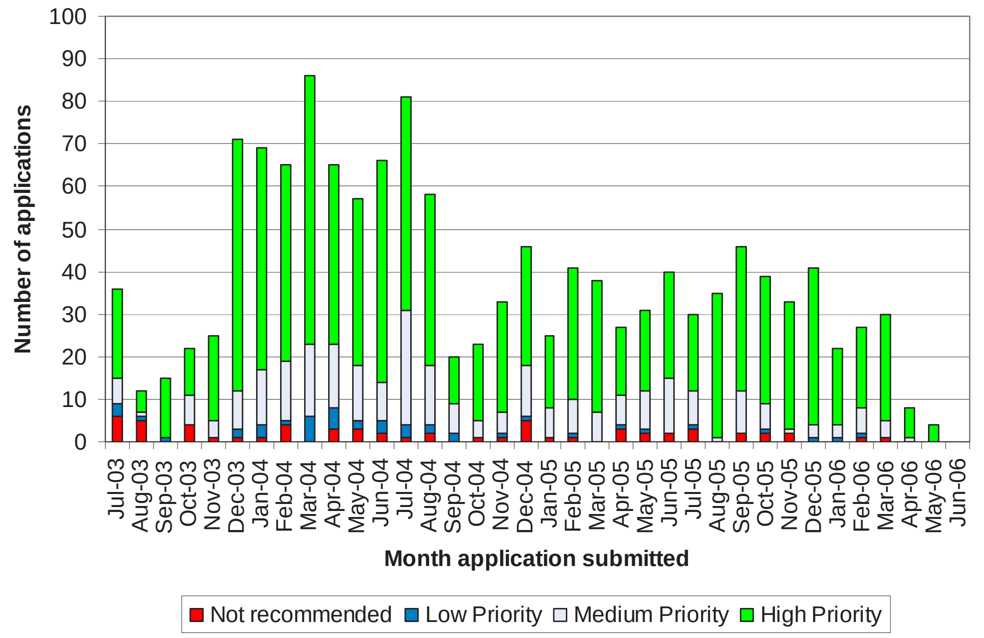
[144] The procedures for obtaining and recording Board member comments and ratings in relation to individual applications varied across the 11 ACCs in the sample examined by ANAO.

[145] This includes applications to legacy programmes considered under Regional Partnerships.

[146] The number of applications identified in the latter months of 2005–06 in Figure 2:2.2 is significantly lower because a Ministerial decision had not been taken as at 30 June 2006 for most applications submitted during those months.

Figure 2:2.2

ACC rating of applications submitted between 1 July 2003 and 30 June 2006, for which a funding decision had been made by 30 June 2006.



Source: ANAO analysis of ACC ratings as advised to the Ministerial decision-maker in departmental assessments of applications on which a funding decision had been made by 30 June 2006.

2:2.30 As Figure 2:2.2 illustrates, a high majority of submitted applications in the first three years of the Programme had been recommended for funding by the relevant ACC, with 73 per cent of the applications on which ACCs were asked to comment being recommended for funding with a High Priority (4). A further 20 per cent were recommended with a Medium Priority (3). Three per cent were recommended with a Low Priority (2) and four per cent were not recommended (1).

2:2.31 If an ACC rating of 1 or 2 is taken as representing an effective recommendation that the project not be funded and a rating of 3 or 4 taken as an effective recommendation that the project should be funded, in aggregate, the relevant ACCs recommended funding for 93 per cent of the applications on which a Ministerial funding decision was made in the first three years of the Programme. This is significantly higher than the 72 per cent approval rate across all applications in the same period.

Ministerial agreement with ACC recommendations

2:2.32 In the report of its inquiry, the Senate Committee reported that:

> Some stakeholders are of the view that funding decisions are too arbitrary and that due weight is not given to the relevant ACC's advice.[147]

2:2.33 In this context, as is discussed further below, Ministerial decisions to 30 June 2006 differed from departmental recommendations in relation to 6.4 per cent of applications. By way of comparison, over the same period, the Ministerial decision differed from the ACC recommendation in relation to 23.6 per cent of applications on which an ACC rating was obtained prior to the Ministerial decision (see Figure 2:2.3). Similarly, the departmental recommendation disagreed with 25 per cent of ACC recommendations. In that analysis, decisions to not approve funding for applications rated 3 or 4 or to approve funding for applications rated 1 or 2[148] have been included as representing disagreements.

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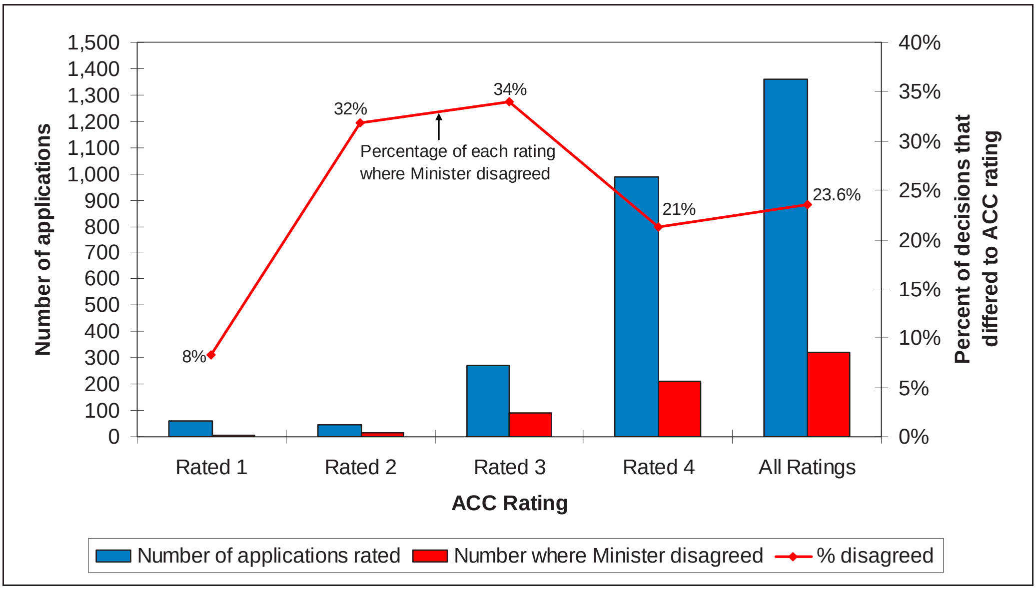
[147] Senate Committee Report, op. cit., p. 200.

[148] Of the 44 applications that were rated '2 Recommended with a Low Priority' in the period examined, 14 were approved for funding. If those 14 are excluded from the applications for which the Ministerial decision is taken as having differed from the ACC rating, the overall rate of disagreement would be 22.5 per cent.

Figure 2:2.3

Ministerial agreement with ACC recommendations July 2003 to June 2006



Source: ANAO analysis of DOTARS' records.

2:2.34 As illustrated by Figure 2:2.3, the most occasions on which a Ministerial decision differed from the ACC priority rating (65 per cent) involved the non-approval of applications which the relevant ACC had rated as 'Recommended and High Priority' (4). As noted, 73 per cent of the decided applications to 30 June 2006 on which the relevant ACC had provided a rating had been recommended for funding with a High Priority (4). In this context, ANAO noted examples in which an application was rated as a '4' despite concerns regarding the project having been expressed within the ACC.

2:2.35 The extent to which Ministerial decisions differed from ACC recommendations was highly variable across ACCs. Table 2:2.1 identifies the rate at which the Ministerial funding decision differed from the ratings for the relevant projects provided by each ACC over the period July 2003 to June 2006.[149]

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[149] This analysis is also based on an ACC rating of 1 or 2 representing an effective recommendation that the project not be funded. The 14 applications rated '2' that were approved for funding were located across 13 ACCs. Excluding those applications would make a minor difference in the proportion of applications for which the Ministerial decision differed from the relevant ACC's ratings.

Table 2:2.1

Rate at which Ministerial decisions that differed from each ACC's ratings: July 2003 to June 2006

Per cent disagreed	ACCs (total number of applications rated)
0% to 5%	Northern Rivers (43), Melbourne East (17)
6% to 10%	Outback NSW (12)
11% to 15%	Shoalhaven (27), Great Southern Western Australia (21), Melbourne's West (14), Moreton Bay Coast & Country (14), Greater Green Triangle (29), Tasmania (45), Northern Territory (16), Geelong (9), Western Australia's South West (37), Gold Coast & Region (19), Peel (19)
16% to 20%	Sunraysia (20), Wide Bay Burnett (15), Northern Melbourne (16), South East Development (Melbourne) (16), Central Murray (22), North East Victoria (47). Goldfields Esperance (18)
21% to 25%	Far North Queensland (24), Limestone Coast (25), Central Queensland (46), Riverina (21), Central Victoria (17), Central NSW (30), Perth (22), Wheatbelt (27), Albury Wodonga (24), Southern Inland Queensland (24)
26% to 30%	Pilbara (23), Mid West Gascoyne (43), Illawarra (20), Gippsland (17), Greater Brisbane (17), Capital Region (14), New England North West (49), Torres/NPA (7), Mid North Coast (NSW) (37), Hunter (26), Mackay Region (26), Central Coast of NSW (19), Victoria Central Highlands (23), South East NSW (35)
31% to 35%	Barossa Riverland Mid North (21), North Queensland (31), Kimberley (12), Orana (36)
36% to 40%	Ipswich & Regional (13), South Central (26), Flinders Region (35), Sunshine Coast (11)
41% to 45%	GROW Sydney (56)
46% to 50%	Adelaide Metropolitan (24), Melbourne Development Board (10)

Source: ANAO analysis of DOTARS documentation of Ministerial decisions and ACC ratings.

2:2.36 The ACCs with the highest rate of disagreement were Adelaide Metropolitan[150] and Melbourne Development Board[151], each of which had a 50 per cent disagreement rate over the three years examined. The ACCs with the lowest rate of disagreement were Melbourne East, where the Ministerial decision agreed with the ACC rating for all 17 applications on which a decision

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[150] Of 24 projects, Adelaide Metropolitan ACC had ten projects it had recommended as High Priority and one it had recommended as Medium Priority that were not approved, and one that it had rated as a Low Priority that was approved. If the project rated Low Priority is excluded, the overall disagreement rate for that ACC would be 46 per cent.

[151] Of ten projects, Melbourne Development Board ACC had three it had recommended as High Priority and two it had recommended as Medium Priority that were not approved.

had been made, and Northern Rivers, where the Ministerial decision agreed with the ACC rating for all but one project (two per cent).[152]

2:2.37 On 11 September 2007, DOTARS advised ANAO that:

> The Department's consideration of advice received from the ACCs is an integral component of the current *Regional Partnerships* assessment process.
>
> Current Departmental practice for assessing *Regional Partnerships* applications involves seeking advice on proposed projects from the ACCs. The information provided to the Ministerial decision makers is transcribed directly from the ACC advice, not summarised. Section 4 (Assessment Process) of the updated Procedures Manual instructs extensively that ACC advice be addressed in project assessments…
>
> As noted above, the Programme's assessment process is shaped so that advice provided by ACCs is fully considered during assessment and incorporated in advice to Ministerial approvers.
>
> The Department notes that the evaluation of applications conducted by the ACCs is only part of the assessment process. Their evaluations do not encompass all factors required to fully assess a project. More extensive investigation of applicant claims is often necessary and requires the Department to seek further information through avenues which include project and applicant external viability assessments and applicant credentials verifications. Limited information on competitive advantage and cost shifting is provided by ACCs and the Department seeks to verify any such claims. Additionally, the Department notes that a number of applications received through the ACCs are either incomplete or have not addressed all assessment criteria. The additional information gained, and the quality of the applications received, can impact on the Department's assessment of projects, leading to Departmental recommendations to Ministerial approvers that are not necessarily aligned to those provided by ACCs.

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[152] This does not include RP00370 Tintenbar Community Hall Restoration which the Northern Rivers ACC originally did not recommend for funding on the basis that the $62 404 being requested of Regional Partnerships (76 per cent of total project costs and 89 per cent of cash contributions) was not adequately matched by other cash or in-kind contributions. The departmental assessment provided to the then Parliamentary Secretary on 5 May 2004, as part of a package of 12 projects, also did not recommend funding. The Parliamentary Secretary annotated the package Minute as 'Tintenbar School of Arts is on hold, pending further information.' The project was re-submitted, under the same RP number, to the Parliamentary Secretary on 16 June 2004 with a recommendation for partial funding of $40 000. The department considered the reduced amount, representing 58 per cent of the total cost of the project, to be a better value for money contribution by the Australian Government. This departmental assessment identified the ACC rating as Recommended and High Priority.

ACC comments received after project considered by Minister

2:2.38 In some cases, formal ACC comments were received subsequent to the Ministerial decision-maker making the funding decision. This occurred, for example, in relation to RP01101 Beef Australia 2006. As outlined in the ANAO case study of this project, the then Minister for Transport and Regional Services approved funding of $2.2 million (plus GST) on 10 June 2004, prior to the department receiving an application on which to undertake an assessment. The Central Queensland ACC did not receive any documentation in relation to the project until 18 June 2004. DOTARS' project assessment, provided to the then Parliamentary Secretary on 21 June 2004 (and endorsed for procedural purposes on 22 June 2004) advised as follows:

> Although the Central Queensland ACC did not forward the application, the Chair has advised that the ACC strongly supports this project and this will be confirmed in writing in the near future.

2:2.39 The ACC Chair provided DOTARS with a letter of support for the project on 13 July 2004.

2:2.40 As was discussed in the Senate Committee's report[153], a similar situation arose in relation to the first application for $680 000 (plus GST) towards the Tumbi Creek Dredging project (RP01028), which was received by DOTARS on 10 June 2004. The Central Coast ACC's comments on the application were sought on 11 June 2004, with the department advising:

> For those projects that were developed in consultation with the ACC, comments should be sent to the Department within 10 working days. However, ACCs are not required to meet this timetable for projects they have not been consulted on. If you have not been consulted on the project please advise how long you estimate it will take to comment on the project.

2:2.41 The ACC Executive Officer advised DOTARS on the same day that:

> As this is the first we have seen this, it will probably take somewhat longer to process.[154]

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[153] Senate Committee Report, op. cit., pp. 73–74 and 93–95.

[154] Also on 11 June 2004, DOTARS' Northern NSW Regional Office advised National Office that in response: 'the ACC has forwarded some clippings from the local newspaper which appear to read as if Federal funding for the project has already been announced.' The 11 June 2004 article reported: 'The council said that it was prepared to match the Federal Government's offer of $680 000 for the work provided the State Government contributed to the remaining third.'

2:2.42 The departmental assessment recommending funding approval, provided to the then Parliamentary Secretary on 23 June 2004, stated: 'The ACC is yet to comment on this project.'[155] In this respect, in April 2005, as part of an exercise to improve the data held in TRAX, DOTARS identified that the comments entered into TRAX by the ACC in relation to RP01028 were still showing the status 'under review', meaning they had not been finalised by the ACC. Accordingly, the date on which the comments had been entered was unclear. The ACC had rated the project a low priority, on the basis it was not consistent with its Strategic Regional Plan and had weak outcomes, and entered the following comments:

> The committee had mixed comments. eg The channel will silt up again in ten years. Very expensive for a small project.
>
> Mixed reaction from the committee. Even split on volunteered opinions!

2:2.43 Additional comments were received by email from the ACC on 24 June 2004 (after the department had completed its truncated assessment), recommending that the proponent be asked for the following information:

- copy of the part of the report that says that the project will allow the water in the creek to be used for recreational purposes.
- is there a feasibility study into the use of the boat ramp. An alternative site for a boat ramp may be a far more economical solution.
- do the reports indicate how often dredging will have to take place, once carried out initially. Copy required.

2:2.44 Departmental records and advice provided to the department by the then Parliamentary Secretary indicate that funding of $680 000 (plus GST) for this application was approved on 24 June 2004.[156]

2:2.45 An application for a further $680 000 grant in relation to the project was received by DOTARS on 1 July 2004, with the department's assessment recommending that the additional funding not be approved being provided to

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[155] The assessment had been transferred to National Office on Friday 18 June 2004, when the Regional Office was asked to provide it with 'whatever you have by tonight' as: 'They will have to finish it off over the weekend, with view to getting it to the Minister by Thursday [*24 June*].' On Sunday 20 June 2004, the Regional Office asked: 'Should we start preparing the contract for this one?' On the same day, National Office advised: 'I think the pressure is more on getting the approval for the announcement. The contract can come later. But I will let you know.' On 21 June 2004, National Office confirmed: 'Agreed, the pressure is getting something to Mrs Kelly for her consideration.'

[156] However, a version of the departmental brief in relation to RP01028 that had been signed as approved by the then Parliamentary Secretary was not held in DOTARS' records.

the then Parliamentary Secretary the same day, at the request of the Parliamentary Secretary's Office. The ACC's comments on the first application in relation to this project were not provided to the Parliamentary Secretary as part of that process. Nor were ACC comments sought on the second application, with the brief relating to the second application advising: 'ACC comments have not been received for this project' (discussed further below).

2:2.46 Another ANAO case study, RP00203 Upgrade Sawmilling Capacity to Meet Export Demand, which also examines RP00740 AUSGUM Furniture Expansion submitted by the same applicant after being unsuccessful with the first application, noted that the ACC had provided comments on the first application to DOTARS on 3 November 2003, via facsimile.[157] The departmental assessment recommending that funding not be approved, because the applicant had already acquired the relevant piece of machinery (retrospective costs being ineligible under the Guidelines), was provided to the then Parliamentary Secretary on 17 November 2003. On 19 December 2003, the Parliamentary Secretary wrote to the then Minister for Transport and Regional Services seeking the Minister's agreement to waive the Regional Partnerships retrospectivity guidelines in the case of this application.

2:2.47 The ACC subsequently entered comments on the application into TRAX on 6 and 14 January 2004. The November 2003 and January 2004 comments both recommended the project as a high priority, but the comments entered into TRAX were not the same as the faxed comments originally provided. In particular, the November 2003 comments had made no reference to the fire at the applicant's premises that had been the catalyst for the ACC discussing a Regional Partnerships application with the applicant and the local Member (despite the application and ACC comments stating that the project was solely focussed on expansion of the business), or to the applicant having already acquired the machine for which funding was being sought (of which the ACC was aware). The January 2004 comments, entered into TRAX after those matters had come to the attention of the department, did make reference to these issues.[158]

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[157] A DOTARS file note indicates that this was due to an ongoing error in TRAX.

[158] On 4 March 2004, the then Minister advised the then Parliamentary Secretary that, while agreeing that the applicant's decision to proceed quickly to acquire a replacement saw following the fire was an important outcome for the local community, he was unable to accede to the request to waive the retrospectivity guidelines in relation to the first application.

ACC not asked to rate or unable to rate

2:2.48 A numerical ACC rating was not obtained in relation to ten projects considered for funding between July 2003 and June 2006. In three cases, comments only were received from a number of ACCs due to the cross-regional nature of the project.[159] In two other cases, the relevant ACC(s) advised that they were unable to provide a rating due to the time frames in which comments were sought.[160] These were:

- RP01055 National Centre in Science, Information Communication Technology and Mathematics for Rural and Regional Education, for which a Regional Partnerships application seeking funding of $12.3 million (plus GST) over five years was received by DOTARS on 15 June 2004. The New England North West ACC (NENWACC) was asked to provide comment within 24 hours of the application being referred to it on 21 June 2004. In the comments provided, the ACC advised that it was difficult to provide a quality response in the timeframe allowed, and raised concerns about a number of aspects of the application, including the minimal information provided given its magnitude, the absence of a clear path to sustainability, inadequate partnership funding and consultation and possible cost shifting. The ACC commented in part:
    - It is difficult for the NENWACC to provide a quality response to this application in 24 hours.
    - For the magnitude of the application the information provided is minimal and is not consistent with information considered or requested by the NENWACC; and
- RP01187 NSW Sugar JV Co-generation Project, which was approved for funding of $10.8 million (plus GST) on 28 July 2004. The application had been received on 16 July 2004 following a request for assistance by

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[159] The projects were RP00238 Rural Law Online, approved for funding of $75 000 (plus GST) on 4 May 2004; RP01183 Regional Australia On Board–Pilot Program, which was recommended by the department for funding of $267 185 (plus GST) under the SONA procedures, but not approved by the then Parliamentary Secretary on 12 August 2004 as not representing value for money; and RP01786 Stocklease–National Livestock Financing, which was recommended for funding of $1 750 000 (plus GST) by the department as a project received in response to the request for proposals for access to finance in regional areas, but not approved by the Ministerial Committee on 30 November 2005.

[160] The normal requirement is that the relevant ACC provide its comment and rating of an application to DOTARS within 10 working days of it being referred to it by the department. The Programme procedures provide that, where an ACC has not been involved in the development of an application, it will not be expected to meet that timetable.

the applicant to the Prime Minister's Office. The 23 July 2004 departmental assessment of the project advised that:

> Given the time critical nature of this project, the Northern Rivers ACC has not had time to provide an official ranking for the project. However, it has advised that the project has strong community support with both local councils passing unanimous approvals and 98% of the 600 farmers in the area committing to provide their "trash" for the power plants.

2:2.49 In relation to a further three projects in the Shire of Ravensthorpe[161] approved for funding totalling $3.7 million (plus GST) on 15 July 2004, the departmental assessment of each project advised that:

> Due to time constraints, only some of the Goldfields Esperance ACC members have been able to comment, who rated this project 3 – Medium Priority.

2:2.50 Two of those projects had been entered into TRAX on 13 July 2004 and the other on 14 July 2004.

2:2.51 As was discussed in the Senate Committee's report, no ACC comments were sought in relation to RP00341 Beaudesert Rail, which, although initially funded using Regional Partnerships funds, was not the subject of a Regional Partnerships application.[162]

2:2.52 As noted above, the relevant ACC was also not asked to comment on the second application in relation to the Tumbi Creek Dredging project (RP01109). On 11 July 2004, the then Parliamentary Secretary disagreed with the department's recommendation and approved a further $680 000 (plus GST) for that project. On 4 August 2004, the Departmental Liaison Officer to the Parliamentary Secretary's Office advised DOTARS of the decision and requested:

> Mrs Kelly will personally announce the additional funding on Thursday, 26 August[163] at The Entrance, NSW. As a result of this outcome, can the Department please provide the following:
>
> 1. Any additional advice that Mrs Kelly should be aware of prior to publicly announcing funding eg. any conditions that should be imposed…

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[161] RP01162 Ravensthorpe & Districts Entertainment Centre–Meeting & Function Facility ($600 000); RP01163 Hopetoun Collocated Emergency Services Facility ($600 000) and RP01164 Hopetoun Community Centre ($2.5 million).

[162] Senate Committee Report, op. cit., p. 43.

[163] Ultimately, the additional funding was announced by the Prime Minister on 26 August 2004, during a visit to Tumbi Creek.

2:2.53 As also discussed in the Senate Committee's report[164], the ACC Chair heard of the proposed increase in Commonwealth funding and, on 6 August 2004, provided comments to DOTARS registering serious concerns regarding the value of the project and the funding process undertaken. On 13 August 2004, DOTARS submitted the requested brief of additional advice to the then Parliamentary Secretary which, in part, advised that the ACC Chair had indicated that he was strongly opposed to the approval of the increased funding bid and provided a copy of the Chair's comments. On the same day, the then Parliamentary Secretary wrote to the department responding to the matters raised in the brief and requested that the department provide advice to the ACC in relation to the timely provision of comments on projects.

2:2.54 ACC comments were also not sought in relation to:

- RP00833 Christmas Island Mobile Upgrade, which was approved for funding of $2.5 million (plus GST) in April 2004 under the SONA procedures;
- the $12.734 million contribution approved in May 2004 from Regional Partnerships funds to the Sustainability Grant element of the Sugar Industry Reform Package administered through the Department of Agriculture, Fisheries and Forestry; or
- the $144 000 contribution from Regional Partnerships approved under the SONA procedures in November 2003 towards the costs of staging Croc Festivals in 2003–04 and 2004–05, with that project being administered through the Department of Health and Ageing.

2:2.55 In its inquiry report, the Senate Committee concluded that the involvement of ACCs is an important safeguard for the Regional Partnerships Programme. On the basis of the case studies examined in its inquiry, the Committee raised concerns that:

- where applications had not been developed in consultation with the relevant ACC, subsequent problems had arisen; and
- there had been instances of the ACC assessment of an application not being provided to the Minister for consideration or the ACC not being given sufficient time by DOTARS to provide an informed assessment.[165]

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[164] Senate Committee Report, op. cit., pp. 93–95.

[165] ibid., p. 199.

2:2.56 In this context, the Senate Committee recommended that:

- it be mandatory for all Regional Partnerships applications to be developed in consultation with local ACCs (Recommendation 2); and
- ACCs must receive copies of relevant applications and be afforded an opportunity to consider and make recommendations not less than ten working days from receipt of the application (Recommendation 3).[166]

2:2.57 In preparing the Government response to the Senate Committee's report, DOTARS advised the then Minister for Transport and Regional Services that:

> The main criticisms of the programs are based on evidence from six case studies which are atypical of most projects funded. Two of these projects (Primary Energy and Beaudesert Rail), for instance, were assessed under arrangements that existed prior to commencement of the Regional Partnerships program. In two of the six projects (A2 Milk and Tumbi Creek) no funds have been spent. The case studies also highlight misfortunes that can befall projects in spite of rigorous assessment (for instance, bridge fires at Beaudesert Rail).

2:2.58 Against this background, the Government provided the following responses to the Senate Committee in November 2006:

- Recommendation 2:

  > Disagree. It is usual practice for ACCs to be consulted in relation to *Regional Partnerships* applications, however, it is important that the Government maintains the ability to fund projects which have not come to its attention through the work of ACCs and which it regards as a high strategic priority. It is also important for reasons of fairness that applicants retain the ability to have an application assessed under the programme even if it is not supported by an ACC.

- Recommendation 3:

  > Agree: This is existing practice under the *Regional Partnerships* programme. It is normal practice for ACCs to comment on applications and generally have at least ten working days for comments.
  >
  > See response to Recommendation 2.

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[166] ibid., p. 200.

2:2.59 However, as demonstrated by the above audit analysis, the Senate Committee's findings were reflective of practices that had been employed more broadly than the case studies examined by the Committee. In terms of the challenges faced by ACCs, the following comments were provided to ANAO in November 2007 by the Chair of the CQACC:

> I would like to commence by outlining that each individual ACC organisation is an entity (Incorporated Association) within their Own-Right. Internal structures and subsequent practice across the ACC Network varies. The CQACC as I hope you would be aware operate (via a staff level of 4 personnel) in a geographical territory similar to the geographic scope of Victoria. Up until just recently it included jurisdiction in 24 Local Government Authorities all of which at some stage in the program's life-span have participated in the RP Program. This is 'no excuse' for what could be described as administrative deficiency however the point being made is that at the time we (CQACC) executed our roles in good faith and to the best of our ability at the time.
>
> The extracts[167] bought to mention projects dating from July 2003—December 2004. Since the commencement of the Regional Partnerships Program in June 2003 and June 2004 the CQACC encountered significant staffing turn-over (2 Executive Officers / 1 Interim Management Consultant) with the current Executive Management position being filled in June 2004. The initial six-month term of the executive position included the development of practices and procedures to address noted deficiencies experienced prior to that commencement in June 2004. I note that administrative deficiencies were present prior to and for a short term after the commencement of the Executive Management position in June 2004.
>
> I am confident to say that such deficiencies have been minimised within the CQACC framework and such development confirmation may be sought from recognition of the current CQACC practices and the department (DoTaRS) who work closely with the CQACC in a capacity building mode.
>
> In conclusion and without dissecting each extract detail I would like to make a statement (formal notice) of the intention of the CQACC to table with the department (DoTaRS), legitimate operational budget shortfalls (vicarious responsibility) with the ACC network and including the CQACC responsible for maintaining the level of Corporate Governance deemed necessary in executing fundamentally sound public administration.
>
> Since the establishment of the ACC Network some 12 years ago the organisation has grown significantly in the delivery of Australian Government

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[167] Six projects within the CQACC were included in the published ANAO project case studies.

> programs, predominantly with the amalgamation of regional programs (Regional Assistance/RAP; Dairy RAP; Regional Solutions; Strategic Opportunities Notional Allocation/SONA)—Regional Partnerships Programs. In terms of measurable delivery (RPP) the organisational increase in *total* project capacity has increased significantly from approximately $400K per annum to in this case some $20 Million per annum. Operational funds allocated to the ACC Network and the CQACC in light of the increased responsibility and deliverable outputs has not increased appropriately to ensure the sound public administration the program deserves.
>
> I fully appreciate that it may appear in the cases noted (extracts) that decision making processes were varied and not necessarily in line with acceptable practice however as noted the CQACC has since worked closely with the department in developing practices and procedures that address the areas responsible for the previous deficiencies identified by the ANAO.

Funding approved without a departmental assessment

2:2.60 The Regional Partnerships Programme Guidelines have been published as the basis on which applications will be assessed and funding decisions made. In that context, potential applicants and other stakeholders may reasonably expect that the Programme funding decisions will be made in a manner, and on a basis, that is consistent with the published guidance.

2:2.61 On some occasions, a Minister has taken the decision to approve funding prior to the department undertaking an assessment of the project against the Regional Partnerships Guidelines. In such cases, the Minister is not able to rely upon the department's assessment in order to satisfy the requirements of FMA Regulation 9 in relation to the spending proposal approval. Accordingly, Regulation 9 required that the Minister undertake his or her own inquiries in that regard, which may include information already in the possession of the Minister and/or his or her Office.

2:2.62 Nine such instances were noted by ANAO.[168] Five of those were approved in the months leading up to the announcement of the 2004 Federal election[169], three were announced during the 2004 election campaign by the

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[168] As ANAO undertook detailed examination of a sample only of the projects approved for funding to 30 June 2006, it is possible that other projects were approved in a similar manner over the course of the Programme.

[169] Namely: RP00341 Beaudesert Rail; RP00956 Peel Region Tourist Railway; RP01055 National Centre of Mathematics, Science and Information Technology for Rural and Regional Education; RP01101 Beef Australia 2006; and RP01207 Gunnedah Grains to Ethanol.

then Minister for Transport and Regional Services as specifically receiving Regional Partnerships funding[170] and one had been approved subsequent to the 2004 election[171]. The approval processes for three of these projects are examined in more detail in Volume 3 of this audit report.

2:2.63 The documentation available in relation to the decisions on each of these projects did not identify the basis on which the Minister had determined that the expenditure would make efficient and effective use of the public money, having regard to the assessment and eligibility criteria set out in the published Regional Partnerships Programme Guidelines. As noted, whilst Ministers are not required to document their reasons, it is recognised as a prudent and sound practice to do so, particularly in circumstances where advice has not been sought from the department and/or additional inquiries have been made by the Minister or the Minister's office.

Ministerial decisions that differed from the departmental recommendation

2:2.64 A total of 1 366 funding decisions[172] were taken between 1 July 2003 and 30 June 2006 where there was a departmental recommendation before the Ministerial decision-maker. The Ministerial decision differed from the departmental recommendation on 88 occasions (6.4 per cent). This comprised:

- 43 instances in which full or partial funding was approved for an application that the department had assessed as not satisfying the Guidelines and did not recommend for funding (3.1 per cent of decisions and 4.4 per cent of approvals;
- seven instances in which higher funding was approved than had been recommended by the department (0.5 per cent of decisions and 0.7 per cent of approvals);
- 18 instances in which lower funding was approved than had been recommended by the department (1.3 per cent of decisions and 1.8 per cent of approvals); and

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[170] Namely: RP01300 Australian Equine and Livestock Centre; RP01151 Mackay Region Science & Technology Precinct; and RP01803 East Gippsland Rail Trail.

[171] Namely: RP02546 Mayors Flood Appeal.

[172] Excluding seven projects that were placed on hold by the Ministerial decision-maker, but with a formal decision to not approve funding not being recorded; election commitment projects; and decisions in relation to variations to approved projects.

- 20 instances in which the Ministerial decision-maker disagreed with the department's recommendation that an application be approved for full or partial funding (1.5 per cent of decisions and 5.1 per cent of non-approvals).
- Table 2:2.2 sets out a summary of the occasions between 1 July 2003 and 30 June 2006 on which the decision taken by the Ministerial decision-maker differed from the departmental recommendation.

Table 2:2.2

Ministerial funding decisions that differed from departmental recommendation: July 2003 to June 2006

Decision-maker	Total decisions[A]	Not recommended, approved		Approved for higher than recommended		Approved for less than recommended		Recommended, not approved	
		No.	% of decisions	No.	% of decisions	No.	% of decisions	No.	% of decisions
Parl. Sec. Kelly	523	8	1.5%	3	0.6%	0	0.0%	3	0.6%
Parl. Sec. Cobb	377	15	4.0%	2	0.5%	17	4.5%	9	2.4%
Ministerial Committee	321	20[B]	6.2%	2	0.6%	1	0.3%	8	2.5%
Others[C]	145	No funding decisions by these Ministers differed from the departmental recommendation.							
TOTAL	**1 366**	**43**	**3.1%**	**7**	**0.4%**	**18**	**1.3%**	**20**	**1.5%**

Notes:

[A] Excludes projects for which a Minister approved funding before a departmental assessment was prepared (see paragraphs 2:2.61 to 2:2.63). Also excluded are decisions approving funding in respect of election commitments; and seven 'not recommended' applications which were placed 'on hold' by the Ministerial decision-maker–none were subsequently funded, but a formal Ministerial decision to not approve funding (or a formal withdrawal by the applicant) was not recorded.

[B] Includes four projects in Ministerial Committee members' electorates. Conflict of interest processes are discussed in Chapter 6 of this part of the audit report.

[C] The other decision-makers were Ministers Anderson, Tuckey and Truss. The only decision taken by Minister Campbell related to RP01207 Gunnedah Grains to Ethanol, on which the Minister took a decision to approve funding prior to obtaining any departmental recommendation. The subsequent endorsement of the funding decision by Minister Lloyd is also not included in this Table.

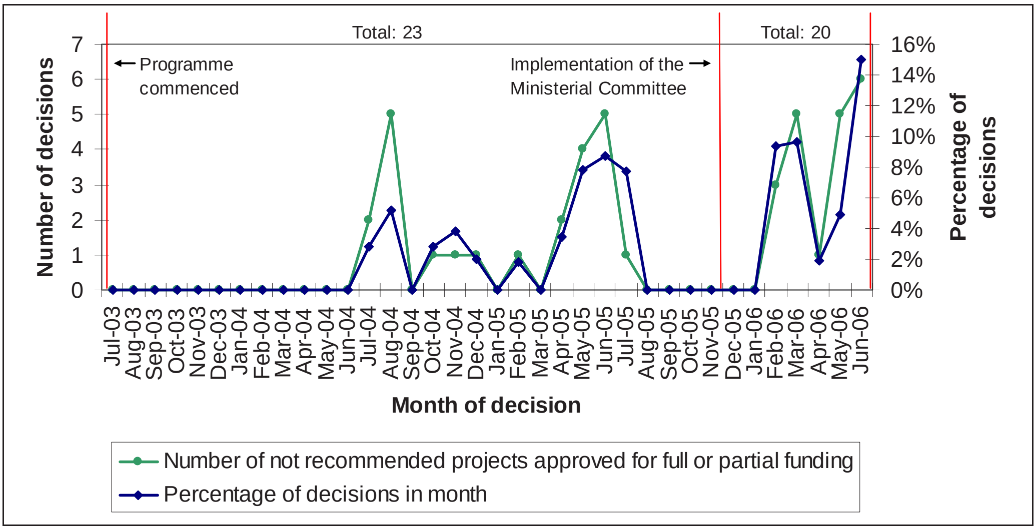
Source: ANAO analysis of DOTARS' records.

Not recommended applications approved for full or partial funding

2:2.65 As noted at paragraph 2:2.3, DOTARS' identified performance indicators for the Regional Partnerships Programme include whether grants are provided for projects that meet the Programme Guidelines. In this respect, Figure 2:2.4 sets out the rate at which Ministers have approved funding for applications assessed by the department as not satisfying the Guidelines.

Figure 2:2.4

Number of decisions to approve 'not recommended' projects



Source: ANAO analysis of departmental recommendations and Ministerial funding decisions.

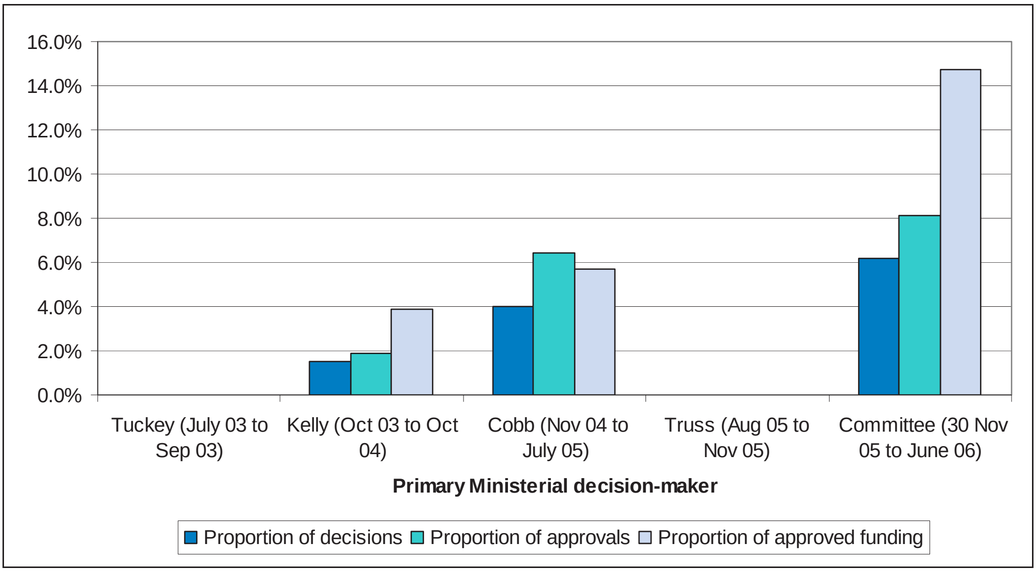
2:2.66 In total, the 43 Ministerial decisions to fund projects that the department did not recommended represented 3.1 per cent of all funding decisions taken over the first three years of the Programme, and 4.4 per cent of approvals. Those decisions involved Regional Partnerships funding totalling $10.5 million (plus GST) or 6.1 per cent of approved funding (excluding projects approved prior to a departmental assessment being prepared and election commitment projects). However, a notable feature of Figure 2:2.4 is the significant variation in the extent to which 'not-recommended' projects had been approved for funding at various stages of the Programme's administration up to 30 June 2006. No such decisions were taken until July 2004, one year into the Programme. Since then, there has been an increasing occurrence of 'not recommended' applications being approved.

2:2.67 Figure 2:2.5 sets out the occurrence of 'not recommended' applications being approved for funding over the course of the Programme to 30 June 2006.

The Ministerial decision-maker with primary carriage for the Programme is identified in each relevant time period.[173] Against this background, it is noteworthy that formation of the Ministerial Committee had been proposed to address the concern that decisions on projects were open to the interpretation that they had been made for political reasons and not on the merits of the project.

Figure 2:2.5

Occurrence of 'not recommended' applications approved for funding



Source: ANAO analysis of DOTARS' record of departmental assessments and Ministerial decisions.

Distribution of decisions that differed from departmental recommendations

2:2.68 Table 2:2.3 sets out the distribution across political parties of the Ministerial funding decisions between July 2003 and June 2006 that differed from the departmental recommendation.

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[173] Between July 2003 and July 2005, the Hon John Anderson MP had policy responsibility for the Programme as Minister for Transport and Regional Services, but delegated responsibility for making most funding decisions to a junior portfolio Minister or Parliamentary Secretary. Minister Anderson made 22 funding decisions on applications for which he had received a departmental recommendation, none of which disagreed with the departmental recommendation, and approved funding for a further two projects prior to obtaining a departmental assessment.

Table 2:2.3

Distribution of funding decisions that differed from departmental recommendations: July 2003 to June 2006

Party electorate	All approvals[A]		Not recommended, approved		Approved for higher funding		Approved for less funding		All non approvals[B]		Recommended, not approved	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Labor	186	19.0	4	9.3	1	14.3	4	22.2	71	18.2	8	40
Liberal	536	54.9	28	65.1	2	28.6	10	55.5	206	53.0	8	40
National	198	20.3	10	23.3	3	42.8	3	16.7	86	22.1	4	20
Independent	47	4.8	1	2.3	1	14.3	1	5.6	22	5.7	0	0
Other	5	0.5	0	0	0	0	0	0	2	0.5	0	0
Various	5	0.5	0	0	0	0	0	0	2	0.5	0	0
Total	977	100	43	100	7	100	18	100	389	100	20	100

Notes

[A] This table excludes projects on which a funding decision was taken prior to the department preparing a funding recommendation (see paragraphs 2:2.61 to 2:2.63.

[B] This table excludes seven not recommended projects that were placed ‘on hold’ by the Ministerial decision-maker, with a formal decision to not approve funding not being recorded.

Source: ANAO analysis of DOTARS’ records.

2:2.69 Table 2:2.3 identifies that:

- applicants in electorates held by the Liberal and National parties represented a higher proportion (65.1 per cent and 23.3 per cent respectively, 88.4 per cent in total) of 'not recommended' projects approved for funding between July 2003 and June 2006 than they did within the overall population of approved applications in that period (54.9 per cent and 20.3 per cent respectively, 75.2 per cent in total); and
- over the same period, applicants in electorates held by the Labor party or an Independent represented a lower proportion (9.3 per cent and 2.3 per cent respectively) of 'not recommended' projects approved for funding than they did within the overall population of approved applications (18.9 per cent and 4.9 per cent).

2:2.70 This outcome remained relatively constant over the period to 30 June 2006. Applicants in Liberal or National party electorates represented 88 per cent of the eight such decisions made by Parliamentary Secretary Kelly and 93 per cent of the 15 decisions made by Parliamentary Secretary Cobb. Of the 20 decisions to approve a 'not recommended' project taken by the Ministerial Committee between its implementation on 30 November 2005 to 30 June 2006, 17 (85 per cent) related to applicants in electorates held by the Liberal (13 or 65 per cent) or National (four or 20 per cent) parties. Over the same period, applicants in Liberal electorates represented 53 per cent of all approved projects and applicants in National party electorates, 22 per cent. Collectively, applicants in Coalition party electorates represented 75 per cent of projects approved by the Ministerial Committee over the period.

2:2.71 By way of comparison, Table 2:2.3 also shows that:

- applicants in electorates held by the Liberal and National parties or an Independent represented a lower proportion of projects not approved for funding despite being recommended by the department (40 per cent, 20 per cent and zero respectively) than they did within the overall population of not approved applications (53 per cent, 22.1 per cent and 5.7 per cent respectively); and
- applicants in electorates held by the Labor party represented a higher proportion of projects not approved for funding despite being recommended by the department (40 per cent) than they did within the overall population of not approved applications (18.3 per cent).

Recording of reasons for Ministerial decisions

2:2.72 Given the fundamental importance of the approval process in relation to the expenditure of public funds, and for accountability purposes, it is critical that agencies have a clear understanding and record of Ministerial decisions.[174] In that context, the recording by Ministers of the reasons for approving or not approving applications to grant programmes has been well recognised as sound administrative practice, including in views on grants administration expressed by Parliamentary Committees.

2:2.73 For example, one of the recommendations of the then House of Representative's Standing Committee on Environment, Recreation and the Arts (HORERA) report into the Community, Cultural, Recreational and Sporting Facilities Program was that where additional information is obtained and departmental officials' ratings are amended by the Minister, or if for any other reason the ratings are amended, that additional information and its impact should be documented so that the Minister could be accountable to the Parliament.[175] The HORERA report further stated:

> The Auditor-General did not allege ministerial fraud or misappropriation, however, the Minister's failure to document her administration left open the question of whether her management was competent and her decisions fair. It has also made it difficult for her to provide unassailable proof that this was the case. Had the Minister made proper documentation she would now be able to easily explain why 49 category 1 applications were not funded in the final round. She would also be able to refer precisely to the additional information she sought and show how this was used in the decision making process. It is the Minister's responsibility to make decisions – her right to do so is unchallenged. It is necessary, however, that she document the processes that lead to those decisions so she can be accountable to the Parliament.
>
> Proper administrative procedures, particularly in relation to documentation, are a prerequisite for proper accountability. They are also essential for the administration and evaluation of the program.[176]

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[174] ANAO Audit Report No.39 2006–07, *Distribution of Funding for Community Grant Programmes*, Canberra, 24 May 2007, p. 18.

[175] House of Representatives Standing Committee on Environment, Recreation and the Arts, *The Community Cultural, Recreational and Sporting Facilities Program – A review of a report on an efficiency audit by the Auditor-General*, February 1994, p. ix.

[176] ibid., paragraphs 4.5 to 4.6, p. 36.

2:2.74 Regardless of whether a Minister annotates the documentation relating to a grant application with a reason for the funding decision taken, the underlying obligation of an approver when considering whether or not to approve a spending proposal is to make such inquiries as are reasonable in order to be satisfied that the proposed expenditure would satisfy the requirements of FMA Regulation 9. All such inquiries, and resulting conclusions, should be conducted in the context of the assessment criteria approved for the Programme and advised to potential applicants.[177]

2:2.75 Ministers are required to record the terms of their approval (FMA Regulation 12 refers). However, there is no requirement under the FMA Regulations for approvers (including Ministers) to record the basis for their decisions. Nevertheless, recording the basis for funding decisions enables decision-makers to demonstrate that the approval has been given in accordance with their obligations under the FMA Regulations. Such documentation also allows Ministers to demonstrate that the programme parameters, as established by the government and advised to the public, were being met and all applicants treated equitably and fairly.[178]

2:2.76 In some cases, a Minister may not undertake further inquiries to inform his or her decision but, instead, form a different conclusion to that of the department based on the information presented. In those circumstances, a key element of accountability is for the approver to articulate the basis on which he or she reached a different conclusion to that of the department. This provides a clear view as to the reasons for agreeing or not agreeing to a proposal that involves the expenditure of public money, and can provide valuable information to assist the department prepare a Funding Agreement that encapsulates key considerations of the Minister when approving funding.

2:2.77 Under Regional Partnerships, each Ministerial decision is taken in isolation from other applications. Consequently, the rationale for a Ministerial funding decision that differs from the departmental recommendation should relate to the merits of the relevant application when considered against the Programme assessment and eligibility criteria. This is a differentiation from

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[177] As noted in ANAO Audit Report No.30 1999–2000, *Examination of the Federation Cultural and Heritage Projects Program*, projects should be selected on merit in accordance with appropriate criteria as outlined in the programme decision-making documentation. See also ANAO Audit Report No.39 2006–07, op. cit., p. 94 and pp. 104–105.

[178] The need for adequate documentation of reasons for decisions on grants is further noted in the Australian Public Service Commission's good practice guide, *Supporting Ministers, Upholding the Values*. p. 53.

grants programmes that involve funding rounds and the comparative ranking of competing applications.

2:2.78 Accordingly, in the context of the Regional Partnerships Programme, where the departmental assessment has concluded that an application does not satisfy one or more aspects of the Programme Guidelines, it would be sound practice for the recorded reasons for the decision to address the basis on which the Minister concluded that each relevant criterion had been satisfied or, where that is not the case, the basis on which the Minister had determined the criterion should be waived in that instance.

2:2.79 In this respect, in addition to departmental and ACC advice, in making funding decisions for Regional Partnerships projects, Ministers have on various occasions:

- had their Office undertake additional inquiries in relation to the proposed project;
- requested additional information from the department before making a decision in relation to a Regional Partnerships application that the department has not recommended for funding; or
- obtained a revised departmental recommendation after indicating to the department an inclination to approve funding for a ‘not recommended’ project.

2:2.80 However, the extent to which Ministerial decision-makers have recorded the basis for decisions disagreeing with the departmental assessment in respect of individual applications against the Programme assessment criteria has been variable.

Recording of reasons for not approving ‘recommended’ applications

2:2.81 The Ministerial decision-maker recorded a reason for the non-approval of 17 of the 20 applications to 30 June 2006 that had been recommended by the department but not approved for funding. The recorded reasons generally related to concerns regarding value for money, having regard to the anticipated project outcomes; the level or type of partnership support; and/or eligibility concerns under the Guidelines, such as perceptions of cost shifting.

No reason was recorded for the non-approval of three recommended applications.[179]

2:2.82 Excluding election commitment projects (which are discussed in Chapter 4 in this part of the audit report), all but one of the 18 decisions to 30 June 2006 to approve lower funding than had been recommended by DOTARS were taken by then Parliamentary Secretary Cobb between January and July 2005. On 12 of the 17 occasions, the Parliamentary Secretary indicated directly or indirectly that the basis for the decision was to either match the lower amount being contributed by the relevant State or Local Government and/or to require an increased contribution from State or Local Government or industry.[180] The remaining decision to approve lower funding than recommended by the department was taken in June 2006 by the Ministerial Committee, in which $75 000 of the funding request of $375 000 was approved for RP02513 BHCF Capital Fund Raising Campaign. The Committee annotated its decision: 'Subject to this amount being for administration of the project and not for the Foundation's granting pool.'

Recording of basis for approving 'not recommended' projects or approving higher funding than recommended by the department

2:2.83 As noted, between 1 July 2003 and 30 June 2006, Ministerial decision-maker(s) approved full or partial funding for:

- 43 projects that the department had recommended not be approved on the basis they did not satisfy the Programme Guidelines; and
- seven projects for which higher funding was approved than that recommended by the department as representing value for money within the context of the Programme Guidelines.[181]

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[179] These were RP00530 KX Website; RP02047 Living Smart Website–Stage 4: Marketing & Expansion Project; and RP00921 Animation Internship.

[180] On two occasions, the reduced funding was identified as matching the level of funding previously approved for similar projects. On one occasion, the reduced amount was approved based on probable employment outcomes, provided the project went ahead with the same job outcomes and the shortfall was made up elsewhere. In the remaining two cases, the reduced funding was approved for identified components of the project, with remaining components being considered core local government or industry works.

[181] ANAO also noted two decisions in which the Ministerial decision-maker disagreed with a departmental recommendation to rescind funding for approved projects. This excludes decisions in relation to requested variations to approved projects.

2:2.84 The record of approval for 44 of the 50 applications that the department had assessed as not satisfying the Programme Guidelines or as only satisfying the Guidelines for lower funding than was approved did not set out the basis on which the Minister had considered the project to be in accordance with the Guidelines and represent efficient and effective use of the public money, having regard to the nature of the advice provided in the departmental assessment and ACC comments.

No recorded reasons for approval

2:2.85 There were no reasons for approval recorded in relation to 12 (28 per cent) of the applications that the department had not recommended for funding. All of those applications were approved following the implementation of the Ministerial Committee. There were also no reasons recorded in relation to the decision to approve higher funding for two applications than was recommended by the department, one of which was approved by Ministerial Committee and the other by then Parliamentary Secretary Cobb.

2:2.86 The Ministerial Committee has agreed that it will make funding decisions on a consensus basis, with most applications being considered out-of-session. If there is not agreement, the department is advised to place the application on the agenda for the next Committee meting. The decisions taken at each meeting are confirmed in a Minute subsequently prepared by the department and signed by each Minister. In most cases, the project-specific Minute relating to each application considered at a meeting will also be signed by each Minister, recording their decision.

2:2.87 Nine of the 12 'not recommended' applications approved by the Ministerial Committee were approved in-session at a formal meeting. In each case, no reason for the approval was recorded on either the Minute recording the decisions taken at the relevant meeting or on the Minute relating to the relevant project. The remaining three not recommended applications, for which a reason for approval was not recorded, were approved out-of-session, with two being approved by each Minister on the same day. The documentation held by DOTARS in relation to those applications did not identify what, if any, discussions may have occurred between the Ministers and/or their respective Offices.

Reason for approval recorded or funding conditions identified

2:2.88 For 30 approved projects that were not recommended or recommended for less funding, the Ministerial decision-maker recorded a reason for approving the level of funding. In a further six cases the Ministerial decision-maker did not record a reason for approval, but stipulated certain conditions on which the funding would be provided.

2:2.89 For eight of the above 36 projects, the reasons for approval and/or funding conditions recorded by the Ministerial decision-maker spoke to each of the assessment and eligibility criteria the department had identified as not being satisfied. However, for two of those, the approval documentation did not address the substance of the concerns raised by the departmental assessment in recommending that funding not be approved. These were:

- RP01253 Maryborough Sugar Factory Stockfeed Project for which Parliamentary Secretary Kelly approved Regional Partnerships funding of $400 000 (plus GST) at 4:03 pm on 31 August 2004. That funding was for the proof of concept, trial phase 2 of the project. The principal reason identified by the department for not recommending funding was that the expected benefits of the project would not be achieved unless phase 3 (plant establishment) was successfully completed, which was reliant on the applicant obtaining $5.5 million in Commonwealth funding from the Sugar Industry Reform Program (SIRP). The department advised that it considered it imprudent to recommend the project for funding until the phase 3 funding was confirmed. Mrs Kelly approved the Regional Partnerships funding subject to the $5.5 million in SIRP funding being granted, but did not address how that condition could be expected to be satisfied when obtaining the SIRP funding would be dependent on the successful proving of the concept through Phase 2. Following announcement of the grant during the 2004 election campaign, Parliamentary Secretary Cobb waived the funding condition in December 2004. In advising DOTARS of the decision, the Departmental Liaison Officer to the Parliamentary Secretary's Office advised: 'Also, advice received from the Office of the Minister for Agriculture, Forestry and Fisheries was that the $5.5m SIRP application could not be fully assessed in the absence of the completion of Phase 2.'[182]; and

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[182] Payments totalling $176 050 (GST inclusive) were made in relation to this grant. In November 2005, the funding recipient advised DOTARS that initial trials with the technique it had intended to use were indicating that this process had an unacceptable level of risk and advised of its intention to pursue trialling and business case development for an alternative technique. The funding recipient requested an early termination of the existing Funding Agreement.

- RP00720 Kilmore Bowling Green Upgrade. DOTARS assessed the application as only partially satisfying the outcomes criterion and, based on what it assessed as relatively weak community benefits, recommended partial funding of $35 000 to match the State government contribution. The department advised the then Parliamentary Secretary that the bowling green was not the only source of recreational activity in the town, and the town could not be considered to be isolated and located away from major transport links such that it would be difficult for the local community to play bowls at nearby venues. DOTARS also recommended partial funding because, in this reworked version of a previous Regional Solutions Programme application, the Australian Government was still by far the major contributor. The reason recorded by the then Parliamentary Secretary on 28 April 2004 for approving full funding of $87 000 was 'due to the strong social and economic outcomes to be derived for the community.' The decision-making documentation did not identify the basis on which the Parliamentary Secretary had concluded that the community benefits were 'strong', rather than 'relatively weak', as had been concluded by the department, or the how concerns about the level of partnership funding had been allayed.

2:2.90 The recorded reasons for approval for the remaining 28 projects also did not fully address the basis on which the approval had been given in accordance with the Programme Guidelines and the requirements of FMA Regulation 9. This included instances in which the Ministerial decision-maker(s):

- reached a different conclusion to that of the department in relation to one or more aspects of the assessment, but did not identify the basis for that conclusion;
- did not address one or more of the eligibility criteria identified by DOTARS as not being satisfied and, accordingly, did not demonstrate that the application was approved for funding within the terms of the Programme decision-making documentation. In some cases, the Minister recorded that the funding approval was based on broad considerations of social or economic benefit to the region, but did not address the particular issues relating to the Regional Partnerships Guidelines identified by the department;

- applied conditions to the approval to address one or more of the issues raised by the departmental assessment, but there was no evidence of inquiries having been undertaken to ascertain whether those conditions would be able to be met by the applicant or the effect the conditional funding may have on the viability of the project. For example, based on the adverse findings of an external viability assessment, DOTARS recommended that the requested funding of $877 260 (plus GST) not be approved for RP00940 Cairns Mushrooms, advising:

  > The project is not recommended for funding on the grounds that:
  >
  > - it does not represent value for money at the requested amount. Funding at a reduced amount would further reduce the applicant's liquidity and make the project an unacceptable risk;
  > - there are competitive neutrality issues with [*competitors*] which currently service the proposed market; and
  > - there are signficant concerns about the project viability.

  The then Parliamentary Secretary disagreed and approved partial funding of $500 000 (plus GST) on 18 November 2004, subject to the applicant providing the shortfall of $377 260. The Parliamentary Secretary's record of the reasons for approval noted that requiring the applicant to contribute a higher proportion of project costs would improve value for money in terms of employment outcomes for a commercial project. However, it did not address the applicant's capacity to obtain the additional financing, or the potential effect on project viabilty, having regard to the department's advice that the external viabilty assessment had confirmed that there were signficant issues with the sustainabilty of the project at the lower contribution originally proposed to be obtained by the applicant through borrowings[183]; and/or

- concluded that the potential benefits of a project outweighed the high viability risks identified by DOTARS, but did not identify the inquiries

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[183] The applicant subsequently experienced significant difficulty in securing the financing required. In June 2006, the department recommended to the Ministerial Committee that it agree to the offer of funding being withdrawn, advising that the applicant had yet to secure finance and that: '…in the event that the applicant is successful in securing finance, the issues with ongoing viability and risk to the Commonwealth remain high.' The applicant subsequently obtained finance, and a Funding Agreement was executed in September 2006 (almost two years after the grant was given conditional approval).

made in order to demonstrate what potential benefits would be adequate to sufficiently offset the risks, or the likelihood of those benefits being achieved.[184]

Consequences of reasons for approval not addressing all criteria

2:2.91 When aspects of a project that the department had identified as being deficient against the Programme Guidelines are not addressed in the reasons for approval recorded by the Ministerial decision-maker, it becomes unclear whether the decision was based on:

- the Minister determining that one or more criteria should be given a greater weighting[185] in relation to a particular application;
- the Minister determining that one or more of the criteria that the department had assessed as not being satisfied had, in fact, been satisfied based either on a different interpretation of the information provided in the departmental assessment or additional information obtained by the Minister but not identified in the record of approval; or
- the Minister determining that one or more of the criteria that the department had assessed as not being satisfied would be waived in relation to that application. In this respect, the SONA procedures approved by Ministers provided a process under which applications that did not satisfy the Guidelines could still be approved for funding. However, the SONA procedures were identified as being applied as the basis for the (substantive) Ministerial decision in respect of seven

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[184] For example, funding of $227 000 (plus GST) was approved on 9 May 2005 for RP01126 Inland Saline Aquaculture–Technology demonstration farm, a pre-commercialisation phase in the potential development of a viable rural industry utilising saline water. DOTARS recommended the project not be approved, advising: ‘The project involves pre-commercialisation research and development which is an extremely high risk activity. The applicant has yet to establish a market for the seafood product of the technology and also needs to demonstrate the economic feasibility and long-term sustainability of the [*technology*].’ DOTARS also considered the application to be ineligible due to cost shifting. In approving funding, the then Parliamentary Secretary noted: ‘Funding up to the amount of $227 000 due to the possible nation wide benefits to salinity both for farmers and the wider community, The benefit would seem to outweigh the risk alluded to by the Dept.’ The applicant withdrew the project on 13 June 2005.

[185] In this respect, respective weightings for the assessment criteria set out the published Guidelines have not been articulated. Nor have procedures been identified and agreed for the consistent application of such weightings.

projects between November 2003 and August 2004**,** none of which involved the approval of a 'not recommended' application.[186]

2:2.92 This does not assist in promoting transparency and accountability in decision-making. It also makes it difficult for Ministers to demonstrate equitable treatment of all applicants under the Programme. Accordingly, there would be considerable benefit in the department setting out, in advice to Ministers, a sound approach to documenting the reasons for departures from recommended advice.

Changed procedures

2:2.93 As noted, under the existing financial framework, approvers are not obliged to record the basis on which they have satisfied their FMA Regulation 9 obligations. That is, while approvers (including Ministers) are required to record the terms of any approval of a spending proposal (FMA Regulation 12 refers), the FMA Regulations do not specifically require approvers to record the nature and extent of the inquiries they undertake or the basis on which the approver was satisfied that the proposed expenditure would be in accordance with the policies of the Commonwealth and make efficient and effective use of the public money, as required under Regulation 9.

2:2.94 In response to issues raised by ANAO, the practices of the Ministerial Committee in relation to recording the reason for funding decisions were improved to better reflect sound practice and the views of Parliamentary Committees in this respect. Specifically, the Minute confirming decisions taken at the Ministerial Committee meeting held on 16 August 2006 introduced a practice of including an annotation of the reasons for decisions taken at the meeting. As at March 2007, this practice had continued for subsequent meetings. To the extent the information taken into account in reaching the decision is also recorded, this will also enhance the capacity of the Ministers to demonstrate that funding decisions have been made in accordance with the

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[186] This excludes the Gunnedah Grains to Ethanol project which was approved by the then Minister for Local Government, Territories and Roads on 5 July 2004 without reference to the SONA procedures, with the department's subsequent recommendation that funding not be approved being withdrawn and replaced by a recommendation for partial funding only, which was not endorsed.

statutory obligations that arise under FMA Regulation 9 in determining whether to approve a proposal for the expenditure of public money.[187]

2:2.95 In addition, as discussed, as part of the measures introduced to address issues raised by ANAO in relation to the application of the FMA Regulations to the Regional Partnerships Programme, the Ministerial Committee agreed in July 2007 to changes to the briefing material that will be provided to it by the department in seeking the Committee's decision on an application. The revised brief will now include explicit reference to the FMA Regulations and the approving Minister's obligations under Regulation 9. In relation to 'not recommended' projects, the revised brief will advise:

> If such projects are supported by Ministers, the approving Minister should confirm that he considers this spending proposal to satisfy the requirements of FMA Regulation 9. It would also be prudent for the Committee to document a reason for the approval and any additional information considered.

2:2.96 In respect to the documentation of funding approvals, Finance provides guidance to agencies in the form of Finance Circular 2004/05 *Regulation 12 of the Financial Management and Accountability Regulations 1997*. In September 2007, Finance advised ANAO that this Finance Circular provides advice to agencies on the documentation necessary to record the terms of an approval, but does not explicitly address the question of recording the basis of an approval. In this respect, whilst changes could be made to the guidance:

- Finance Circulars are addressed to FMA Act agencies and officials but not to Ministers, who are explicitly mentioned in the Regulations as approvers of spending proposals; and
- the explicit terms of FMA Regulation 12 do not require approvers to document the basis for their decision.

2:2.97 Accordingly, under the current financial framework, departments can do no more than invite Ministers to document the basis for their funding decisions. In this respect, in relation to another recent ANAO performance audit where the department has subsequently changed its procedures to invite

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[187] Within the scope of this audit, ANAO did not examine the departmental assessment in relation to any projects on which funding decisions were taken after the Committee's 21 June 2006 meeting. Accordingly, ANAO is not able to comment on the extent to which the recorded reasons for approvals given at subsequent meetings addressed the criteria the department had assessed as not being satisfied by the relevant applications. ANAO also did not examine the decision-making records of any out-of-session decisions taken beyond 30 June 2006 and, consequently, is not able to comment on the extent to which those funding decisions were demonstrably made in accordance with the requirements of FMA Regulation 9.

the Minister to document the basis for funding decisions, the Department of Families, Community Services and Indigenous Affairs recently advised the Senate Standing Committee on Community Affairs that its Minister had declined the invitation to provide written reasons for alterations to the departmental recommendations.[188]

2:2.98 Against this background, there would be benefits in the financial framework being enhanced so as to require approvers to document the basis on which they have concluded the proposed expenditure represented efficient and effective use of public money. This is particularly important where the decision-maker takes a different view from advice provided to them. The existing requirement under FMA Regulation 12 that approvers record the terms of an approval in writing does not adequately address this issue.

2:2.99 In circumstances where approvers already document the basis for their decision, consistent with sound administrative practices, no changes would be required to existing processes. In other circumstances, such an enhancement to the financial framework would provide greater assurance that approvers (including Ministers) are discharging their statutory responsibilities having regard to public interest considerations and, for approvers, it has the potential to remove the uncertainty that currently exists in relation to decisions where the basis is not clear. While ANAO is supportive of such a change to the financial framework, it is recognised that this is a matter for the Finance Minister to consider, following advice from his department.

Recommendation No.2

2:2.100 ANAO *recommends* that, as part of its responsibilities for developing and maintaining the Commonwealth's financial framework, the Department of Finance and Administration assess the merits of proposing amendments to the FMA Regulations that would have the effect of requiring approvers to document the basis on which the approver is satisfied that the proposed expenditure:

- represents efficient and effective use of the public money; and
- is in accordance with the relevant policies of the Commonwealth.

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[188] Official Committee Hansard, Senate Standing Committee on Community Affairs, Estimates (Budget Estimates), 28 May 2007, CA43–44.

Finance response

2:2.101 Agreed. It is important to note that the FMA Regulations already explicitly require the approvers of spending proposals – whether ministers or officials – to record the terms of an approval in a document. The appropriate mix and level of documentation depends on the nature and risk profile of the particular spending proposal, and approvers are required to exercise prudent judgement in this regard. In the case of smaller or less significant proposals, for example, a receipt or vendor statement signed by the approver is considered appropriate. In contrast, a significant and complex spending proposal will necessarily require a more elaborate mix and level of documentation. Finance agrees to assess the proposal contained in Recommendation 2, noting the importance of having proper regard to questions of efficiency and the need to maintain cost-effective processes as part of that assessment.

2:3 Assessment and Approval of Grants in a Pre-election Period

This chapter examines the processes relating to the approval of Regional Partnerships applications in the months leading up to 5:00 pm on 31 August 2004, when the caretaker conventions took effect prior to the 9 October 2004 Federal election.

Background

2:3.1 Grants approved in the period leading up to the calling of an election very often involve expenditure that will not be incurred until after the election. In those circumstances, compliance with the requirements of the FMA Regulations provides a framework for regulating the decision-making process for the commitment of public money, as well as a requirement to promote its efficient and effective use.

2:3.2 While the likely timing of a Federal election is often anticipated for some months prior to the Prime Minister calling it, executive administration continues in its normal course until the formalities establishing the caretaker period are in place. Nevertheless, there is a potential for Ministerial decision-making during the period leading up to an election being called to attract perceptions that decisions have been influenced by political considerations. In this context, in the report of its inquiry, the Senate Committee raised concerns about the increase in Regional Partnerships grant approvals that occurred in the months preceding the 2004 election.[189]

2:3.3 The information made available to the Senate Committee did not include recommendations made by DOTARS to Ministers as to whether funding should be approved for individual projects. In this respect, between December 2003 and August 2004, the department recommended that applications be approved for funding at a significantly higher rate compared to later periods (see Table 2:3.1).

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[189] Senate Committee Report, op. cit., pp. 30 and 209.

Table 2:3.1

Comparison of recommended and approval rates to occurrence of 'not recommended' projects being approved to 30 June 2006

Period	Recommended rate[A]	Approval rate	'Not recommended' projects approved	
			Number	Proportion of approvals
July 03 to Nov 03	57%	57%	Nil	Nil
Dec 03 to Aug 04	80%	81%	8	1.9%
Oct 04 to 29 Nov 05	59%	61%	15	6.4%
30 Nov 05[B] to June 06	72%	76%	20	8.2%

Notes

[A] This is proportion of which projects on which a Ministerial funding decision was taken in this period that had been recommended for funding by the department.

[B] The Ministerial Committee began making funding decisions at its 30 November 2005 meeting.

Source: ANAO analysis.

Increased Programme activity in the lead-up to the calling of the 2004 Federal election

2:3.4 The first year of the Regional Partnerships Programme coincided with the final year of an election cycle, leading to the Federal election held on 9 October 2004. The writs for the election were issued on 31 August 2004, setting in train the caretaker conventions under which decisions on Regional Partnerships applications were generally suspended.

2:3.5 Figure 2:3.1 sets out the rate at which applications were submitted and approved over the first three years of the Programme to 30 June 2006.[190] A notable feature of Figure 2:3.1 is the high level of Programme activity that occurred between December 2003 and August 2004 compared to the remainder of the three years examined, which resulted in:

- grants approved in the nine months between December 2003 and August 2004 (402) representing 41 per cent of all grants approved in the

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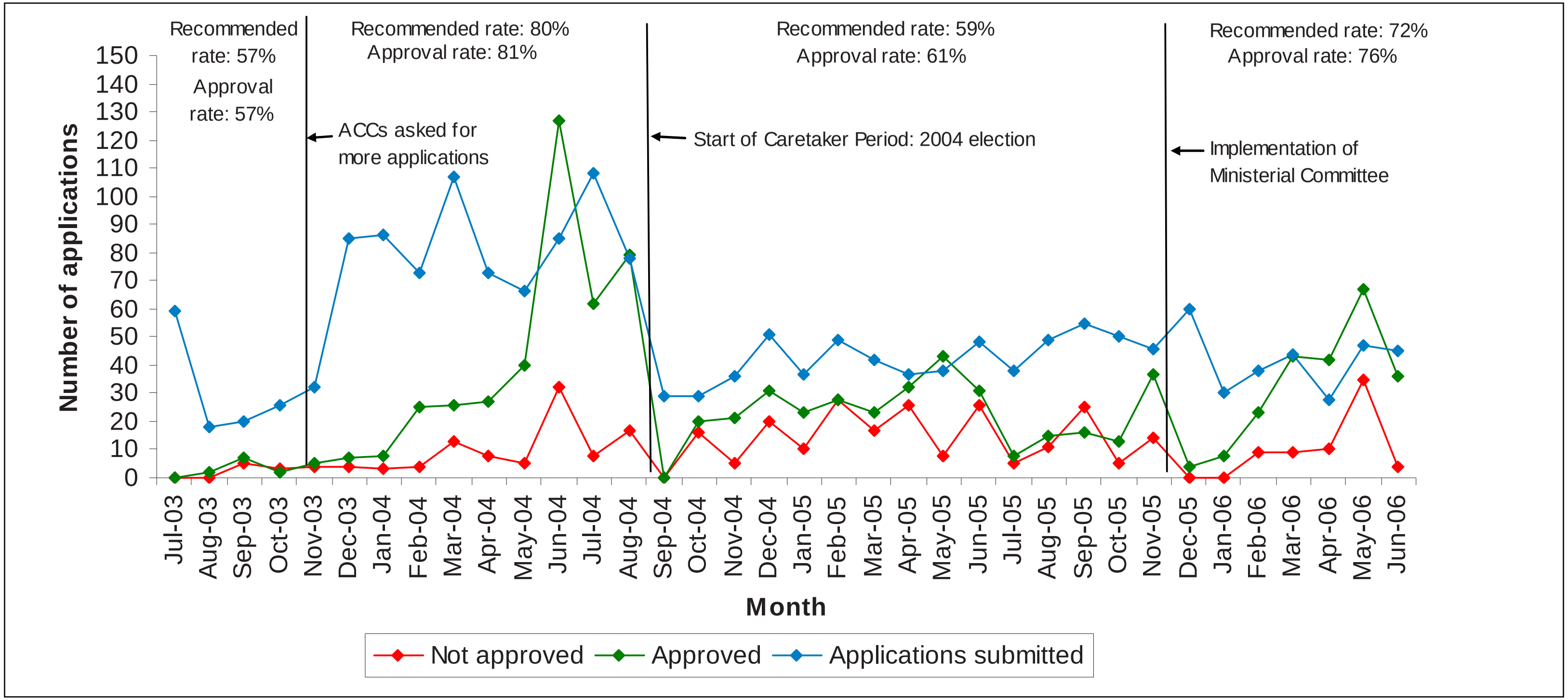
[190] Of the applications submitted, 308 were subsequently withdrawn by the applicant or otherwise deemed by the department to have been withdrawn during the assessment process (with many of those being subsequently replaced by a revised application); 143 were in assessment or pending Ministerial decision as at 30 June 2006; 13 were not progressed due to being announced as election commitments during the 2004 election campaign; and six were not funded without a formal Ministerial decision to not approve funding being recorded. July 2003 applications were primarily submitted under Programmes subsumed into Regional Partnerships when it began on 1 July 2003.

first three years of the Programme. The Regional Partnerships funding approved in respect to those grants represented 52 per cent of total funding approved over the first three years of the Programme;

- 36 per cent of projects approved in the 2004–05 financial year being approved between 1 July 2004 and 4:16 pm on 31 August 2004. Further, in the five months between 1 April 2004 and 31 August 2004, a total of 337 projects were approved for funding. This was more projects than were approved in the 2003–04 financial year (278 projects) or 2005–06 financial year (312 projects). It was only marginally less than the 393 projects approved over the entirety of 2004–05; and
- the approval rate of applications considered by Ministerial decision-makers during the period December 2003 to August 2004 being 81 per cent, compared to an overall approval rate of 67 per cent for applications considered in the period following the election to June 2006. In this respect, approval rates dropped significantly after the election (to an overall rate of 61 per cent for decisions made during the year to November 2005), and only started to rise again during the latter part of the period examined by ANAO (to 76 per cent for funding decisions made by the Ministerial Committee during the period 30 November 2005 to 30 June 2006).

Figure 2:3.1

Application and approval trends: July 2003 to June 2006



Source: ANAO analysis of DOTARS data.

Increased application activity prior to 2004 election

2:3.6 As shown in Figure 2:3.1, application activity during the nine month period from December 2003 to August 2004 was substantially higher than that experienced in any other stages of the Programme to June 2006. During that period, applications were submitted at an average rate of 85 per month, which was twice the average monthly application rate of 42 experienced over the 22 months following the 2004 election to 30 June 2006. The applications submitted between December 2003 and August 2004 (25 per cent of the first 36 months of the Programme) accounted for 41 per cent of all applications submitted over the full three year period examined.

ACCs asked to increase the rate of applications

2:3.7 The administered annual appropriation allocated to Regional Partnerships in the 2003–04 Budget process was $99.099 million. Within the total available funds, each ACC was allocated a notional allocation as a guide to the amount available to be approved for projects in its area in 2003–04.

2:3.8 In briefing the then Parliamentary Secretary in preparation for the November 2003 ACC National Chairs Conference, DOTARS advised that:

> One of the key messages you need to give ACCs is that the number and speed of approvals needs to be significantly increased if the Regional Partnerships allocation is to be fully expended this financial year.
>
> Less than $1 million has been approved in new projects so far. Based on advice from ACCs there are projects totalling around $50 million currently under development, however, very few have been lodged to date.
>
> To meet our expenditure targets, it is essential that most of these projects are submitted by no later than December and that the full allocation has been committed by March 2004–only four months away. In addition, a high level of approvals will need to be maintained after this in order to spend next year's available funds which are approximately three times this year's amount…
>
> We have recently reviewed the level of funding available for new projects under Regional Partnerships, taking account of:
>
> - likely outcomes of the Additional Estimates process; and
> - lower than expected levels of expenditure from elsewhere in the Regional Partnerships package, which frees up funding for new projects under Regional Partnerships guidelines.

> We estimate that around $5.5 million of additional funds will become available for new projects this year.
>
> Notional allocations are normally set at around 165% of the available funding, to take account of the fact that only about 60% of approved funds are usually spent in the year they are approved.
>
> Given the significant increase in available funding, and the fact that the bulk of approvals will not take place until the second half of the financial year, ACCs will now need to be given a message to "think double" their existing notional allocations to ensure that expenditure targets are met. We expect most ACCs to welcome this news.

2:3.9 As shown in Figure 2:3.1, there was a significant increase in the number of applications submitted in December 2003.

2:3.10 In January 2004, DOTARS wrote to ACC Chairs advising each of its performance to that time in achieving approved projects under the Programme, and the percentage this represented of their respective notional funding allocations for 2003–04. DOTARS advised ACCs that:

> While the rate of approval has been slower than we would have hoped, some ACCs have been performing well, achieving almost 50% of their original notional allocation within the first 6 months of the programme. On average the network of 56 ACCs has achieved 3% against the national total of all notional allocations….
>
> In summary, this indicates that all ACCs need to increase the rate of high quality applications from their region. It is important to maintain sufficient demand and expenditure to continue to justify the need for Regional Partnerships funding in future years. It is therefore critical that as many applications as possible are approved before March 2004 if we are to achieve full expenditure of Regional Partnerships funds for the 2003-2004 financial year.

2:3.11 A number of ACCs raised concerns with DOTARS that this letter had not accurately reflected the increased submission of applications during December 2003 and January 2004 that were still in assessment. On 29 January 2004, DOTARS provided revised data on submitted applications as at 20 January 2004, and advised ACCs that:

> This table re-inforces my earlier concern about the number and value of projects approved nationally: currently $2.4m or only 6.7% of the revised notional allocation. However, due to a great effort by ACC staff, we have received over 100 new applications since the November ACC Chairs Conference. In total the Department is now assessing 206 projects with a

> combined value of $29.7m (82% of the revised notional allocation). However, more high quality projects are required by March given that, to date, only 57% of submitted projects have been approved for funding.
>
> On our part, we are working to ensure assessment and contracting of projects is completed as quickly as possible. Assessments completed so far have taken an average of 12 weeks from lodgement to announcement...We are working to streamline the assessment process so that an average assessment takes less than 8 weeks. Also, I remind you that genuinely urgent projects can be fast-tracked through the assessment process.

2:3.12 As also shown in Figure 2:3.1, high numbers of applications continued to be submitted each month between January and August 2004.

2:3.13 From 2004–05, a notional allocation to ACCs of available Regional Partnerships funding was no longer made. In 2005–06, DOTARS incorporated a key performance indicator into the operational funding contract with each ACC under which ACCs were expected to generate $4 in approved project funding for every $1 of operational funding.

Distribution of applications submitted during period leading up to 2004 election

2:3.14 Although the rate at which Regional Partnerships applications were submitted during the nine months preceding the calling of the 2004 Federal election was significantly higher than in other periods of the Programme, the distribution of those applications across political parties and electorate demographics was very similar to that experienced more broadly across the full first three years of the Programme (see Table 2:3.2 and Table 2:3.3). This analysis excludes a small number of applications located across multiple party electorates and/or electorate demographic.

Table 2:3.2

Comparison of party electorate distribution of applications in period prior to 2004 election to overall period July 2003 to June 2006

Party Electorate	Percent of applications–Dec 03 to Aug 04	Percent of applications–July 03 to June 06
Labor	***19.3%***	***19.8%***
Marginal Labor	6.6%	8.4%
Fairly Safe Labor	6.5%	5.1%
Safe Labor	6.2%	6.2%
Various Labor	0.0%	0.1%
Liberal	***51.4%***	***52.2%***
Marginal Liberal	17.7%	13.6%
Fairly Safe Liberal	12.4%	12.6%
Safe Liberal	21.2%	25.9%
Various Liberal	0.1%	0.1%
National	***23.4%***	***21.9%***
Marginal National	3.7%	3.0%
Fairly Safe National	6.6%	4.5%
Safe National	12.8%	14.3%
Various National	0.3%	0.1%
Independent	***5.0%***	***5.3%***
Fairly Safe Independent	1.6%	0.9%
Safe Independent	3.4%	4.4%
Other	***0.9%***	***0.8%***
Marginal Other	0.9%	0.8%
Total	**100%**	**100%**
Coalition	***74.8%***	***74.1%***

Source: ANAO analysis of DOTARS and Australian Electoral Commission data.

Table 2:3.3

Comparison of demographic distribution of applications in period prior to 2004 election to overall period July 2003 to June 2006

Electorate Demographic	Percent of applications–Dec 03 to Aug 04	Percent of applications–July 03 to June 06
Rural	71.2%	73.1%
Provincial	14.5%	12.7%
Outer Metropolitan	8.3%	8.2%
Inner Metropolitan	6.0%	6.0%

Source: ANAO analysis of DOTARS and Australian Electoral Commission data.

Assessment periods

2:3.15 Coinciding with this period of the highest rate of application was a significant decrease in the average time between the submission of applications and the Ministerial funding decision.

Average assessment time

2:3.16 One of the expected benefits of a continuous assessment process over structured funding rounds is the potential to reduce the time between applications being submitted and a decision being advised to the applicant. The need to improve responsiveness in the assessment of applications had been identified by the 2002 Regional Programmes Reform Taskforce through attitudinal research it had commissioned, which had reported that clients and stakeholders had stressed the need to reduce the complexity of processes, speed up decision-making and coordinate a whole of Government approach.

2:3.17 In raising concerns about the achievability of a proposed rapid assessment strategy for low value applications[191], the then Minister for Regional Services, Territories and Local Government indicated that he considered three months to be a reasonable timeframe for applicants to wait for a decision. Consistent with this, DOTARS' internal performance measure for assessment periods was set at a target of 12 weeks between application and funding decision. However, the failure to achieve this target has been an area

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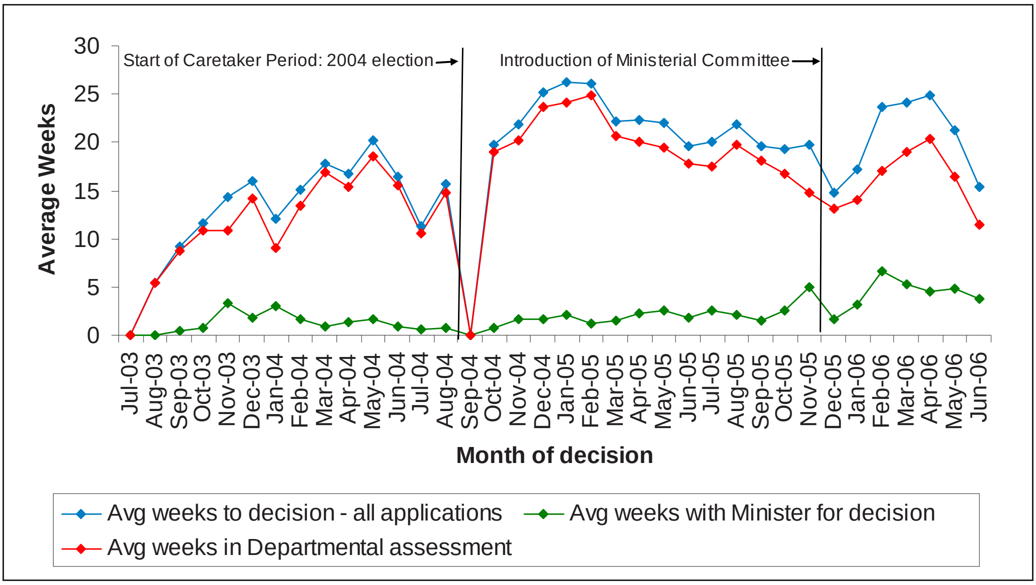
[191] The strategy had proposed that applicants for $10 000 or less be given a decision within ten working days, later modified to a proposed 25 days. As noted, this strategy was not ultimately adopted because it was reliant upon the devolution of decision-making in respect of lower value grants to departmental officials, which the responsible Ministers did not agree to.

of ongoing concern in the administration of the Regional Partnerships Programme, with the assessment time for many applications taking significantly longer. By way of comparison, some applications have been approved within a very short of time of being submitted, particularly during the months leading up to the calling of the 2004 Federal election.

2:3.18 Figure 2:3.2 illustrates the average weeks between application submission and the date of Ministerial decision for applications decided in each month over the first three years of the Programme.[192]

Figure 2:3.2

Average assessment and decision times: July 2003 to June 2006



Source: ANAO analysis of DOTARS data.

Shortened average assessment times in lead up to 2004 election

2:3.19 As Figure 2:3.2 illustrates, there was a significant reduction in average assessment times in the months prior to the commencement of the caretaker period for the 2004 election. Specifically, the average time between application and Ministerial decision for the 70 decisions made in July 2004 was 11 weeks, which was a significant reduction from the average of 18 weeks for decisions

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[192] Approvals each month reflect the substantive date of approval by a Ministerial decision-maker. In some cases, the decision was later endorsed by another Ministerial decision-maker.

taken in March 2004. The 70 decisions comprised 62 approvals and eight non-approvals.

2:3.20 The July 2004 average assessment time was the shortest average experienced since September 2003, three months after the Programme commenced. The 12 funding decisions made in that month had had an average assessment period of nine weeks, but half of those related to applications submitted and partially assessed under a legacy programme amalgamated into Regional Partnerships. For the purposes of this analysis, those applications are taken as being submitted to the Regional Partnerships Programme when it commenced on 1 July 2003. Similarly, one of the two applications decided in August 2003, with average assessment times under Regional Partnerships of five weeks, had been originally submitted to an earlier programme.

2:3.21 The reduction in average assessment times in the period leading up to the 2004 election being called was even greater when only approved projects are considered, falling from 21 weeks for the 40 applications approved in May 2004[193], to 16 weeks for the 127 applications approved in June 2004 and, as noted, further reducing to 11 weeks for the 62 approvals in July 2004 (or just over half the average time for approvals given in May). Average assessment times rose to 15 weeks for the 79 applications approved in August 2004.

2:3.22 In the three years to 30 June 2006, 29 projects had a recorded departmental assessment period prior to funding being approved by the Ministerial decision-maker of less than 20 days[194], of which 28 were approved for funding. Of those, 20 (71 per cent) were approved between 11 June and 31 August 2004. The value of grants approved for projects with assessment periods of less than 20 days ranged from $20 000 to $10.8 million.

2:3.23 The sharp reduction in average assessment times in the period immediately preceding the election is further highlighted when considered in the context of the assessment periods experienced in the nearly two years following the 2004 election to 30 June 2006.

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[193] This excludes the approval of a contribution from Regional Partnerships funds of $12.734 million to the Sustainability Grant element of the Sugar Industry Reform Package administered through the Department of Agriculture, Fisheries and Forestry, which gave effect to a government decision rather than involving a genuine Regional Partnerships application.

[194] For those applications for which ANAO examined the supporting documentation, this is based upon the date of the application being received by the department, or of the Ministerial decision-maker making the funding decision where this was done prior to the department undertaking an assessment. For other projects, this analysis is based upon the application submission date as recorded by DOTARS in TRAX.

Measures to reduce assessment times

2:3.24 On 13 August 2004, the then Minister for Transport and Regional Services agreed to the introduction of a streamlined application and assessment process for projects seeking $25 000 or less in Regional Partnerships funds. The performance measure for assessing those applications was identified as eight weeks.

2:3.25 However, as Figure 2:3.2 shows, average assessment periods escalated sharply following the 2004 election. The average elapsed time between application and decision in the 12 months following the election (October 2004 to October 2005) was 22 weeks for all applications (twice that of decisions taken in July 2004) and 16 weeks for applications seeking $25 000 or less (twice the target). Average assessment times for all applications did not again reach the 15 weeks experienced in August 2004 until December 2005. This was followed by another significant increase over the subsequent six months, only falling to a 15 week average again for decisions taken in June 2006.

2:3.26 One of the Programme changes announced in November 2005 was the introduction of a model under which all assessments would be undertaken within DOTARS' National Office, rather than Regional Offices. In proposing that change to the Prime Minister on 31 October 2005, the then Minister advised:

> I would like to reduce the time this process takes so that ACCs and communities do not lose their enthusiasm for generating new projects. I propose to eliminate one step in the process, by introducing a single assessment in Canberra to improve the consistency of recommendations made to Ministers.

2:3.27 The National Office single assessment process commenced in respect of applications submitted from 13 March 2006. In April 2007, DOTARS advised the Ministerial Committee that its introduction had reduced assessment times by about half for applications under $25 000 (from 22 weeks to approximately eight to 11 weeks) and by about 25 per cent for applications over $25 000 (from over 20 weeks to about 15 weeks). However, DOTARS further advised that:

> While average times have decreased significantly, it is still the case that for over half of projects decisions are not made within published timeframes (12 weeks, or 8 weeks for projects seeking $25 000 or less). Improvements in the assessment times have to some extent been impacted by increased time taken by three Ministers making decisions. Decisions by Parliamentary Secretaries averaged one week in 2003/04 while the current average for Ministerial Committee decisions is over 5 weeks.

2:3.28 The extended decision-making timeframe under the Ministerial Committee can be seen in Figure 2:3.2.

2:3.29 To assist in reducing assessment times, DOTARS recommended that the threshold for projects that would be subject to the streamlined application and assessment process be raised to those seeking up to $50 000. The department advised the Ministerial Committee that the aim was to implement a process that would provide those applicants with an answer within four to eight weeks.[195] The Ministerial Committee agreed to the increased threshold on 10 May 2007.

100 projects

2:3.30 A further factor in the significant increase in project approvals during the months leading up to the 2004 election, accompanied by the significant reduction in average assessment periods, was a request to the department from the then Parliamentary Secretary for 100 projects to be submitted for her consideration over a nine day period.

2:3.31 On 15 June 2004, the Parliamentary Secretary wrote to the department requesting information regarding the current status of all applications then being assessed to enable her to assess the existing backlog of Regional Partnerships applications. The Parliamentary Secretary requested that the list be ordered by ACC, with electorates noted, the bid amount and details as to whether the project was in Regional Office, National Office or with the ACC (see Figure 2:3.3).[196] Despite average assessment times for individual applications increasing significantly after the 2004 election, there were not any further requests of this nature received by the department after the June 2004 request.

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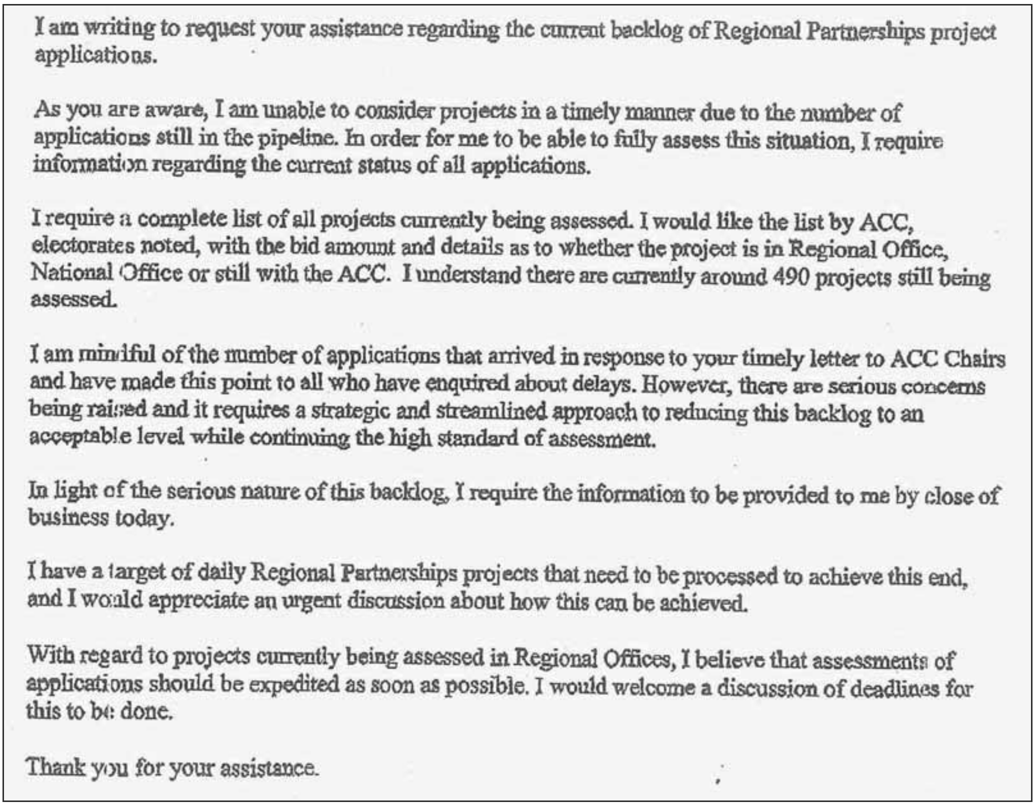
[195] DOTARS advised the Ministerial Committee that: ‘This proposal reflects the decreasing number of small projects being received over time and the relatively low levels of risk associated with smaller projects. Analysis of *Regional Partnerships* applications over the life of the programme shows that requests for under $25 000 account for 21% of total project applications while applications of $50 000 or less account for 36% of applications. Over the last three years the number of applications for projects valued at less than $50 000 has decreased to 30%. Streamlining assessment for projects under $50 000 will also align with contracting arrangements (where a short-form funding agreement is generally used for projects under $50 000 as they are considered to present less risk).’

[196] This was the second occasion on which the then Parliamentary Secretary had requested such information from the department. Specifically, on 24 October 2003, DOTARS provided the Parliamentary Secretary with a list of all 82 Regional Partnerships applications then under assessment, advising: ‘You asked for a list of all Regional Partnerships projects currently being assessed by the Department by electorate. We understand from your Office that you have asked for the list to inform discussions you plan to have with local Members about the relative priority of projects in their electorates. A list of projects sorted by electorate is at Attachment A.’

Figure 2:3.3

Parliamentary Secretary's 15 June 2004 request for details of all current applications



I am writing to request your assistance regarding the current backlog of Regional Partnerships project applications.

As you are aware, I am unable to consider projects in a timely manner due to the number of applications still in the pipeline. In order for me to be able to fully assess this situation, I require information regarding the current status of all applications.

I require a complete list of all projects currently being assessed. I would like the list by ACC, electorates noted, with the bid amount and details as to whether the project is in Regional Office, National Office or still with the ACC. I understand there are currently around 490 projects still being assessed.

I am mindful of the number of applications that arrived in response to your timely letter to ACC Chairs and have made this point to all who have enquired about delays. However, there are serious concerns being raised and it requires a strategic and streamlined approach to reducing this backlog to an acceptable level while continuing the high standard of assessment.

In light of the serious nature of this backlog, I require the information to be provided to me by close of business today.

I have a target of daily Regional Partnerships projects that need to be processed to achieve this end, and I would appreciate an urgent discussion about how this can be achieved.

With regard to projects currently being assessed in Regional Offices, I believe that assessments of applications should be expedited as soon as possible. I would welcome a discussion of deadlines for this to be done.

Thank you for your assistance.

Source: Letter to DOTARS from the then Parliamentary Secretary to the Minister for Transport and Regional Services, 15 June 2004.

2:3.32 On 15 June 2004, the department met with the Parliamentary Secretary to discuss her request, with DOTARS' records identifying that, on 16 June 2004, the Parliamentary Secretary was to provide the department with a marked listing of the applications then in the system, indicating those she particularly wanted to see.[197] In order to achieve the increase in assessment activity that would be required to meet the Parliamentary Secretary's request,

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[197] In this context, the then Parliamentary Secretary had also indicated support for the streamlined application and assessment process for applications seeking $25 000 or less; and for the situations in which the department was able to reject an application being expanded beyond those that were clearly ineligible under the Guidelines to include applications with serious deficiencies. On 13 August 2004, the then Minister for Transport and Regional Services agreed to the first proposal but disagreed with the delegation to the department of decision-making for applications with serious deficiencies.

the department proposed to employ measures such as increased use of temporary staff.

2:3.33 On 17 June 2004, the then Parliamentary Secretary's Office confirmed to DOTARS that: 'the applications to be processed will be in the order of 100'. The same day, DOTARS submitted a package of 12 projects for the then Parliamentary Secretary's consideration, of which nine (75 per cent) were recommended for funding. This was the 30th package of projects submitted for Ministerial consideration since the commencement of the Programme. The departmental Minute covering Package 30 stated:

> At our meeting on 16 June 2004 you asked us to forward 100 projects for your consideration by next Friday, 25 June 2004, in order to make significant progress on reducing the current backlog of around 350 projects with the Department for assessment.
>
> This is the first batch of the 100 projects that we are aiming to delivery to you by that time. (*sic)*

2:3.34 Between 18 and 24 June 2004, a further seven packages comprising 79 projects (of which 61 (77 per cent) were recommended for funding), plus one project being considered under the SONA procedures (also recommended for funding), were submitted by the department.

2:3.35 On 25 June 2004, DOTARS provided the then Parliamentary Secretary with Package 38, with the covering Minute advising:

> At our meeting on Wednesday, 16 June 2004, you asked us to put forward 100 projects for your consideration by cob next Friday, 25 June 2004.
>
> This is the seventh package of the 100 projects that we are aiming to delivery to you by that time.(*sic*) This package contains 7 projects and brings the total number of projects delivered to you and Mr Anderson to 101[198] (including The Slim Dusty Centre from Package 29[199]).

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[198] The departmental records examined by ANAO identified 100 projects submitted for Ministerial consideration between 17 and 25 June 2004.

[199] This refers to the second application for funding for the Slim Dusty Centre project, which was approved for further Regional Partnerships funding of $500 000 (plus GST) under the SONA procedures on 21 June 2004. The departmental assessment recommending funding approval had been submitted to the then Parliamentary Secretary on 17 June 2004 as Package 29, although the application was not submitted into TRAX until 20 June 2004. An earlier grant of $500 000 (plus GST) for this project had also been approved under the SONA procedures.

2:3.36 Of the 100 projects submitted by the department for Ministerial consideration between 17 June and 25 June 2004, 78 (78 per cent) were recommended and approved.

2:3.37 However, the 2 July 2004 departmental Minute covering the next package of projects submitted for Ministerial decision, Package 39, indicated that the department's understanding of the nature of the then Parliamentary Secretary's 16 June 2004 request now differed from that previously identified. Specifically, the Minute indicated that, in addition to a request to reduce the backlog of applications, the Parliamentary Secretary had requested that the department select 100 projects for priority, or 'fast tracked', assessment. The departmental Minute advised the then Parliamentary Secretary that:

> Subsequent to our meeting on Wednesday, 16 June 2004, you asked us to consider approximately 100 projects for priority assessment.
>
> To date 39 of these projects have been cleared and sent to you for decision, as part of the 101 assessments undertaken to reduce the backlog of applications.
>
> This package contains another 12 of these priority projects for your consideration. Assessments of the Sealab and Tumbi Creek projects have been provided for your consideration in separate advice. Details of other projects are provided in Attachment D.

2:3.38 Between 6 July and 31 August 2004, DOTARS provided a further 20 packages containing 143 project assessments to the then Parliamentary Secretary for her consideration, of which 117 (82 per cent) were recommended for funding, and 122 (85 per cent) were approved.

Departmental recommendations for funding

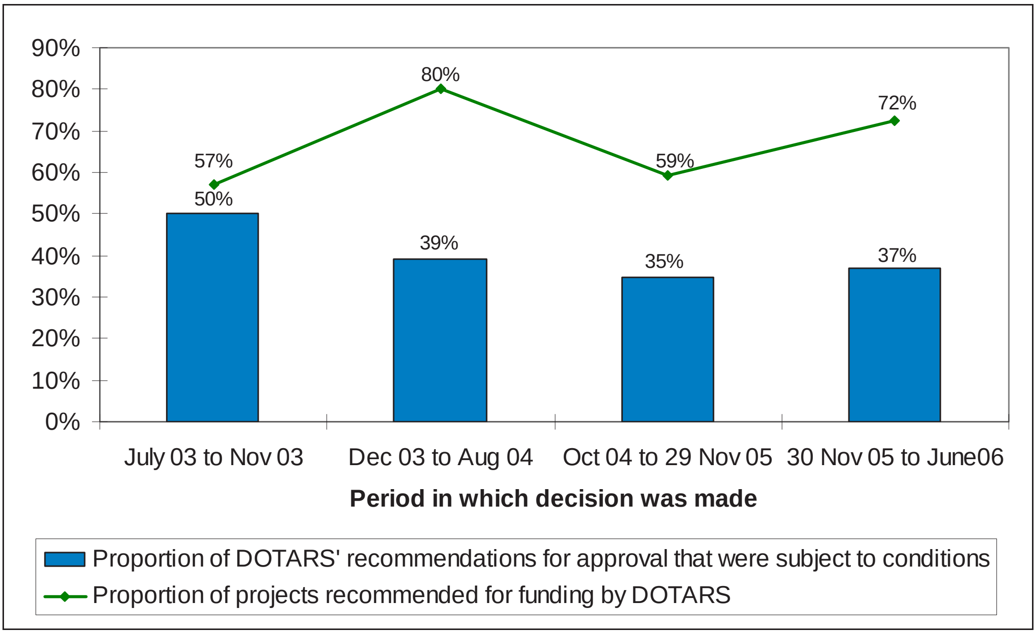
2:3.39 It could be expected that, as a consequence of seeking to have applications brought forward and assessed in a truncated timeframe, there would be an increased proportion of applications either:

- not being recommended for funding due to a lower quality of application or a reduced capacity to undertake substantive due diligence inquiries; and/or
- being recommended for funding subject to conditions.

2:3.40 As noted, a feature that distinguishes the period between December 2003 and August 2004 from other periods of the Programme to 30 June 2006 is the high rate at which DOTARS recommended that applications be approved for funding. By way of comparison, there was not a significant difference during this period in the proportion of departmental approval recommendations that were subject to recommended conditions. Specifically, over the full three years to 30 June 2006, 37 per cent of departmental recommendations that funding be approved were subject to one or more recommended conditions. Similarly, despite the significantly higher proportion of projects being recommended for approval by the department and the significant reduction in average assessment periods, 39 per cent of departmental recommendations that funding be approved in the period December 2003 to August 2004 were subject to recommended conditions (see Figure 2:3.4).

Figure 2:3.4

Departmental recommendations for approval subject to conditions



Note: Although a higher proportion of recommended approvals in the period July to November 2003 were subject to recommended funding conditions (50 per cent), this related to only a small number of applications. Of 28 applications decided in that period, the department recommended that funding be approved for 16, with eight of those being subject to recommended funding conditions.

Source: ANAO analysis of DOTARS data.

Consequence of truncated assessments

2:3.41 It is important that projects that are 'fast-tracked' for funding consideration through the flexible administrative arrangements applied to the

Regional Partnerships Programme are still subjected to appropriate levels of due diligence and scrutiny.

2:3.42 However, a consequence of the focus on maximising the number of projects being submitted and approved in the first eight months of 2004 was that many projects were not subjected to the usual level of scrutiny prior to funding being approved and announced.

2:3.43 For example, RP01187 NSW Sugar JV Co-generation Project was considered for Regional Partnerships funding following a request from the Prime Minister's Office for urgent advice from DOTARS as to whether funding could be approved by 31 July 2004 to meet project timeframes. This request had followed a request to the Prime Minister's Office for assistance from the project proponent. The department subsequently completed a truncated assessment in seven days before recommending to the then Minister for Transport and Regional Services on 23 July 2004 that he approve funding of either $6.8 million (the amount requested of Regional Partnerships) or, as occurred, $10.8 million (including $4 million that the applicant had proposed to seek through a stream of the Sugar Industry Reform Programme that was not yet available).

2:3.44 Clearly, there was little opportunity for the department to undertake due diligence in the manner required by the documented internal procedures in respect to this multi-million dollar grant within that timeframe. For example, in assessing both the applicant and project as being a low risk, the department advised the then Minister that:

> In securing loans from financial institutions for this project, legal due diligence has already been conducted on the applicant by Mallesons. The Department is prepared to accept this report…
>
> Again, to secure from financial institutions for this project, technical due diligence has already been conducted by SKM. The Department is prepared to accept this report.

2:3.45 DOTARS' record of the assessment did not include copies of either report. In this respect, on 26 October 2004, the applicant advised DOTARS that it could not yet provide an invoice for the first Regional Partnerships instalment in part because the banks were still undertaking a due diligence check on the project. In November 2007, the funding recipient (New South Wales Sugar Milling Co-operative Limited) advised ANAO of the sequence of events in relation to the project, as follows:

> Basic due diligence had been conducted on the project on a technical basis by SKM and financial analysis by Mallesons. The Co-operative needed to provide sufficient equity to meet its commitments to the project. After assessing sources of funding available, the Co-operative was in the order of $15 million short of requirements. An approach was made to the local Member for assistance.
>
> It should be appreciated that this was a 'chicken and egg' situation. If the Government could not have assisted with funding, the project could not proceed. Nor without the Government's commitment in principle could the remainder of the due diligence process be completed. The due diligence process had to reach a certain stage before the 'Limited Notice to Proceed' could be signed by the Banks. It was only at this point that the first instalment of Government funds could be sought. Therefore the Government was not subject to any undue risk.
>
> The due diligence process was finally completed by SKM and Mallesons before Financial Close on 23 May 2005. The project is now well advanced and all challenges presented to–date have been addressed. The new cogeneration plants are due to be fully operational in the first half of 2008. Without the pro-active actions of the Government this project could not have gone ahead.[200]

2:3.46 Another example related to RP01101 Beef Australia 2006. As the ANAO case study of that project identified, Regional Partnerships funding of $2.2 million (plus GST) was approved by the then Minister for Transport and Regional Services on 10 June 2004 prior to DOTARS receiving a Regional Partnerships application or undertaking any assessment of the project. A truncated departmental assessment was subsequently undertaken in six days. The National Office assessment concluded that the project satisfied the Programme Guidelines, but did not include rigorous and objective analysis against the assessment criteria set out in the Guidelines, including in respect to sustainability of outcomes.

Approval of immature or ill-defined projects

2:3.47 A number of the projects approved for funding prior to the 2004 election were at an immature stage of development such that important

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[200] The funding recipient further advised that: 'The project has provided jobs in Northern NSW. Over 400 people are currently employed in construction on both sites and approximately 120 Full Time Equivalent jobs will be created when the plants are in operation during 2008. The co-generation plants at Broadwater and Condong are among the largest of their kind in Australia, they are innovative in that they will produce twice the amount of renewable electricity per tonne of cane than existing plants. All relevant parties have been consulted during the project including the NSW DECC, local Councils and the local community. The project will benefit all parties.'

aspects of the project, such as costs, design and methodology, remained uncertain for a considerable period of time following the funding announcement. Such circumstances make it considerably more difficult for the decision-maker to form a conclusion at the time of approval as to whether the expenditure would make efficient and effective use of the public money.

2:3.48 In some cases, the departmental assessment undertaken prior to funding approval did not adequately examine the basis for the project scope and budget as presented to the Ministerial decision-maker. This was examined, for example, in ANAO's case study of RP00622 Jarrahdale Heritage Park, approved for Regional Partnerships funding of $760 800 (plus GST) on 7 June 2004.[201]

2:3.49 In other cases, the viability of the project was not established prior to the funding being approved and announced. This is examined, for example, in the discussion of RP00956 Peel Region Tourist Railway in Volume 3 of the audit report. A Funding Agreement for this project was not able to be executed until 24 January 2007, nearly three years after funding was announced by the Prime Minister in February 2004 and 2½ years after the then Parliamentary Secretary endorsed the subsequent departmental assessment which recommended that funding be approved, subject to a satisfactory independent viability assessment.[202] On 8 November 2006, DOTARS advised the Ministerial Committee that:

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[201] On 19 September 2007, the Ministerial Committee agreed to a departmental recommendation that it agree to reducing the scope of the project to the work already completed, obtaining a full acquittal of Regional Partnerships funds for the components completed to date and terminating the Funding Agreement. The Shire funding recipient was to be advised of the decision by DOTARS and invited to submit an application for the remaining activities.

[202] In terms of this process, in November 2007, the Rail Heritage Foundation of WA advised ANAO that: 'The Peel Region Tourist Railway (PRTR) proposal was put to the Federal Government through the Peel Development Commission (PDC) by way of which I believe was the result of a request, suggestion or recommendation by Federal Member Ian McFarlane (and perhaps Don Randall, Member for Canning) whilst he was visiting the Peel Region in 2003. The RHFWA and I as Chairman did not know of nor were invited to be part of those discussions. Never-the-less, Mr. Howard's announcement was welcomed by the RHFWA as a major step forward. I did not at that time know how or when the funds were to be delivered. It was not until later it was revealed that the funds would be administered via a Regional Partnerships Program application through DOTARS. It has remained a mystery to me and the RHFWA Board that the funds were publicly committed prior to the application process being completed. The application was prepared with the assistance of the PDC and lodged directly with DOTARS in 2004.'

> An internal review[203] of the project and development of a business plan by the proponent failed to satisfy the Australian Government funding approval condition of project viability. In addition, the Peel Development Commission had similar concerns about some of the project activities it was to fund…the applicant has now submitted a revised budget, containing items agreed to be viable and sustainable, which will enable the condition of funding approval to be met.

2:3.50 On 5 December 2006, the Ministerial Committee agreed to vary the project scope and budget. A number of elements of the original project, including the construction of a railway station and boardwalk at Boddington, were omitted. Although the activities to be completed under the project were substantially varied, the total Regional Partnerships funding remained at $845 000 (plus GST), as announced by the Prime Minister in February 2004. In November 2007, the Rail Heritage Foundation advised ANAO that:

> The variation came about by a previously unforeseen escalation of costs for the planned construction of the Pinjarra Station. This variation was done in complete and open consultation including the Rail Heritage Foundation, the Peel Development Commission, the Shires of Boddington and Murray, DOTARS Perth and others.

2:3.51 A number of other projects approved through truncated assessment processes in the period preceding the 2004 election also subsequently experienced significant delays due to the need for the project to be appropriately developed to a stage where it could progress. An example relates to four construction projects in the Shire of Ravensthorpe that were approved for funding totalling $3.9 million (plus GST) on 15 July 2004. The projects were:

- RP01162 Ravensthorpe & Districts Entertainment Centre–Meeting & Function Facility ($600 000);

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[203] In November 2007, the Rail Heritage Foundation advised ANAO that:

> 'A Business Plan was developed for the Peel Region Tourist Railway project by Indec Consulting on behalf of the Peel Development Commission *(PDC)* in October 2003. That Plan considered the project viable and sustainable. I suspect the "internal review" referred to is the review of the Indec Business Plan, also developed for the PDC by Parsons Brinckerhoff in mid 2006. The second Review identified strengths and weaknesses and made recommendations accordingly and did indeed provide for forward planning and sustainability.
>
> As my location minimizes my electronic capability I relied upon others to forward copies of this report to DOTARS Perth and have recently discovered this did not occur. I am currently rectifying this as I believe the Linqage Report will offer satisfaction. I mention this because in some small it way demonstrates some of the difficulties the RHFWA has had to contend with over time. It is interesting to note that the PDC held a position on the RHFWA Board from its inception until August 2006. Upon resignation from the Board and a long awaited shift in roles, the project began to progress.'

- RP01163 Hopetoun Collocated Emergency Services Facility ($600 000);
- RP01164 Hopetoun Community Centre ($2.5 million); and
- RP00579 Collocation of Facilities–Hopetoun (RTC) ($200 000).

2:3.52 The first three projects were entered into TRAX on 13 and 14 July 2004. The fourth had been submitted on 23 February 2004. The 15 July 2004 departmental Minute recommending that funding be approved for each project, subject to conditions, advised the then Parliamentary Secretary that:

> The Ravensthorpe Nickel development will involve a total estimated investment of $1.8 billion. BHP Biliton is reportedly contributing $38 million for housing and infrastructure costs and the Western Australian Government has stated its intention to provide $18.4 million for non-recoverable funding conditional on a residential workforce and an Australian Government contribution.
>
> The three Regional Partnerships applications in this package are being proposed as the key Australian Government contribution to this major resource development project. It has been proposed to Ministers Anderson and Campbell that funding of these projects will be influential in the decision by BHP Biliton whether or not to have a residential (rather than fly-in-fly-out) workforce for the Ravensthorpe Nickel development.
>
> The Collocation of Services–Hopetoun (Rural Transaction Centre) application is included in this package as a related application by the Shire of Ravensthorpe that will provide improved services to the community, including Ravensthorpe Nickel employees.

2:3.53 At the time of approval, detailed budgets had not been provided in relation to any of the projects. The Regional Partnerships funding bid for each of the first three projects represented between 100 and 97 per cent of cash costs, and between 96 and 75 per cent of total costs. In-kind contributions by the Shire related to the Shire-owned land on which the projects would be constructed, with the resulting facilities to be owned by the Shire. This level of partnership funding would normally be considered inadequate under the Regional Partnerships Programme Guidelines. Despite this, each project was assessed as satisfying the partnerships and support assessment criterion on the basis that:

> Partnership support for this project is considered to be minimal, although it is recognised that the project is part of a larger project to provide infrastructure and services for the workforce of the Ravensthorpe Nickel development. The project will involve a total estimated investment of $1.8 billion. BHP Billiton is

> reportedly contributing $38 million for housing and infrastructure costs and the WA Government has stated its intention to provide $18.4 million for non-recoverable funding conditional on a residential workforce and an Australian Government contribution. Taking into consideration that [*each project*] is an integral part of the larger Ravensthorpe Nickel project which has co-funding from the three levels of government and from the private sector, partnership support for this project is considered to be adequate.

2:3.54 The funding for those three projects was approved subject to provision of detailed budgets and plans for the facilities; satisfactory project viability assessments and a commitment by BHP Biliton to a residential workforce. The funding was announced by the Prime Minister on 30 July 2004, without reference to the funding conditions.

2:3.55 In June 2006, advice provided to the then Minister for Transport and Regional Services by DOTARS showed that there had been extensive delays in respect to each of the four projects reaching a stage of development where they could be progressed. Although between 32 and 45 per cent of the Regional Partnerships funding approved for each project had been paid, construction had yet to commence on any project.

2:3.56 Similarly, as noted by the Senate Committee in its report, two grants totalling $1.36 million (plus GST) were approved in June and July 2004 for the Tumbi Creek Dredging project 'within remarkably short time frames when compared with many other [*Regional Partnerships Programme*] grants.'[204] The first application for $680 000 (plus GST) was submitted on 10 June 2004, with the departmental assessment recommending funding be approved being provided to the then Parliamentary Secretary 14 days later on 24 June 2004. The departmental assessment had advised that the application satisfied all assessment criteria. An application for a further $680 000 (plus GST) was received on 1 July 2004, with the departmental assessment recommending that additional funding not be approved being submitted to the then Parliamentary Secretary the same day.[205] The Parliamentary Secretary disagreed with the department and approved further funding of $680 000 (plus GST) on 11 July 2004.

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[204] Senate Committee Report, op cit., p. xiii.

[205] The departmental Minute noted: 'Urgent-Your Office requested a brief by 4:00 pm today.' The department advised the then Parliamentary Secretary that the additional funding did not represent value for money to the Australian Government given the size and nature of the project.

2:3.57 Despite the significantly truncated assessment processes applied to this project, the department did not advise the then Parliamentary Secretary of any qualifications on its advice or assessments. Following a request from the Parliamentary Secretary's Office for any additional advice she should be aware of prior to publicly announcing the funding, such as any conditions that should be applied, the department provided additional advice on 13 August 2004. This included advice that the approval should be subject to the applicant obtaining all necessary statutory approvals. The department further advised that no allowance had been made for treatment of any potential acid sulphate soils at the landfill site, which may require further resolution with the Environmental Protection Agency.[206] In responding the same day, the then Parliamentary Secretary agreed with the recommended funding condition, but noted that this was the first time the department had raised the issue relating to potential acid sulphate soils and advised that:

> I have based my decisions on advice provided at the time by the Department. Subsequent matters such as the possibility of further siltation and acid sulphate soils should be taken up with the Wyong Shire Council as the project proceeds…

2:3.58 This example highlights the issues that can arise where departmental assessments are truncated at the request of Ministers, without the department appropriately qualifying the extent of inquiries that were undertaken and the assurance that the Minister should take from the assessment.

2:3.59 It was subsequently identified that there were a number of aspects of the project that had not been adequately developed at the time of funding approval to support the execution of a Funding Agreement. In particular, the applications provided little detail regarding the project methodology or budgeted costs. It was also clear from contemporaneous Meeting Minutes of

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[206] As discussed at paragraph 2:2.53, the department also advised the then Parliamentary Secretary that concerns about the project had been raised by the relevant ACC Chair.

the Council applicant that further investigation would be required before the project could proceed.[207]

2:3.60 Due to the need to satisfy the funding condition regarding obtaining all necessary environmental and other approvals, and the implications the terms of those approvals could have for the project methodology and costs, a Funding Agreement for this project was not able to be executed until 2 May 2006, nearly two years after funding approval. Following an initial trial to confirm the dredging methodology to be adopted, the Funding Agreement identified an expected project completion date of 7 May 2007, including completion of dredging and road reconstruction and final environmental monitoring reporting. As at July 2007 (three years after the funding was approved and announced), the project had yet to be substantively commenced, as shown in Figure 2:3.5.

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[207] For example, an engineering report considered by Council on 9 June 2004 advised: ’It should be noted that these options are still based on preliminary data, and would require further investigation to allow revision of the costs and timeframes of a selected option as much as possible. Any selected option would therefore: require further investigations of the site examining the possible spoil removal, temporary storage areas and disposal methods; be subject to a full environmental assessment; require referral to the various approving authorities prior to gaining consent to proceed…With full investigation, and any imposed conditions by approving authorities, the final costs may vary by up to at least 25%. For all options an allowance of $75 000 has been included to allow for any additional studies or equipment required as a result of the need to obtain approvals.’ (Wyong Shire Council, Reports to the Ordinary Meeting of Council, Directors’ Reports, Alternative Dredging Proposals for Tumbi Creek, 9 June 2004, p. 69).

Figure 2:3.5

Status of Tumbi Creek Dredging Project – July 2007

Source: Photographs of mouth and boat ramp on Tumbi Creek taken at July 2007 ANAO site visit.

2:3.61 In November 2007, Wyong Shire Council advised ANAO that:

> a dredging contractor was appointed on 23 April 2007, with a number of pre-dredging actions required to be completed by the contractor prior to work

commencing. These included preparation of a range of management and safety plans and various site works. Commencement of dredging was delayed by widespread flooding in June 2007 on the Central Coast. This affected Tumbi Creek and the Tuggerah Lakes in particular. Dredging commenced in July 2007 with completion of dredging expected by the end of 2007 and all associated project works and studies by mid-2008.

Recommendation No.3

2:3.62 ANAO *recommends* that the Department of Transport and Regional Services appropriately qualify its assessment and advice to Ministers in circumstances where the assessment of a Regional Partnerships application has been truncated or expedited.

DOTARS response

2:3.63 Agreed.

Announcing grant approvals

2:3.64 The ANAO Administration of Grants Better Practice Guide notes:

> The announcement of grants can be a very sensitive issue at any time but especially in the lead up to an election, be it for Commonwealth, State, Territory or local governments. It is accepted that governments may choose the timing of announcements to suit their purposes having regard to other priorities. Nevertheless, from a program administration perspective and, as a matter of good practice, it is preferable for all decisions on approved or unsuccessful projects to be announced together, or within a relatively short period of time. This approach enables proponents to know the outcome of their proposals as soon as possible so they can begin implementing their projects or pursue alternative sources of funding. It also has the added advantage of avoiding any perception that the timing of the announcements is being used for party-political purposes.[208]

Announcement process for Regional Partnerships grants

2:3.65 A feature of the Regional Partnerships Programme is that, to demonstrate that an application satisfies the local support aspect of the assessment criteria, applicants are encouraged to provide evidence of endorsement of their project from appropriate stakeholders. As is discussed further in Chapter 6 in this part of the audit report, an important aspect in this

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[208] ANAO Better Practice Guide—Administration of Grants, op. cit., p. 47.

context is the provision of letters of support from elected representatives, including from the local Federal Member.[209] Local Member support is viewed favourably in the assessment process, irrespective of the Member's political affiliation.

2:3.66 However, when it comes to the public announcement of approved funding, the approach has differed depending on whether the local Federal Member is from a Coalition party or not.

2:3.67 In this respect, an important requirement of the then Minister for Transport and Regional Services and the then Minister for Regional Services, Territories and Local Government in agreeing to the design of the new regional programme package in August 2002 was that all approved grants would be announced by the Ministers and/or the local Member, with no reference made to differing arrangements depending on the political affiliation of the local Member.

2:3.68 On some occasions, the approving Minister, or other Transport and Regional Services portfolio Minister, has chosen to make the announcement personally. However, the approach normally adopted has been that, where the local Federal Member was from a Coalition party, he or she would be advised of the grant approval by the approving Minister[210] and invited to make a public announcement of the funding, for which the Member was provided with a draft Media Release. Where the local Member was not from a Coalition party, a duty Coalition Senator from the relevant State was invited to make the public announcement.

2:3.69 This process has been followed regardless of whether the Coalition Member or government duty Senator had provided the applicant with a letter of support for the project. For example, in assessing the Regional Partnerships application for RP02501 Mullumbimby Civic Hall Refurbishment project as satisfying the partnerships and support criterion, DOTARS advised the Ministerial Committee that:

> The project is supported by the Mullumbimby Chamber of Commerce and letters of support have been received from groups and individuals in the

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[209] For example, the Programme Guidelines advise potential applicants that: 'Where possible, applicants should obtain letters of support from community organisations, leaders or elected representatives of the three levels of government.' (DOTARS Regional Partnerships Guidelines, July 2006, p. 12)

[210] It has often been the case that the Minister's Office will give the local Coalition Member verbal advice of the outcome of grant applications. Where a grant is approved, this is followed by formal written advice from the Minister.

> community including schools, the RSL, teachers, arts bodies and various businesses and individuals with interests in utilising the hall. A letter of support has also been received from Federal Member for Richmond, Justine Elliot, ALP.

2:3.70 The department recommended that funding be approved. The Ministerial Committee referred the project for further discussion at its 12 April 2006 meeting, at which it approved Regional Partnerships funding of $304 975 (plus GST). A letter dated the same day from the then Minister for Transport and Regional Services to Senator the Hon Sandy Macdonald, Senator for New South Wales (who had not provided a letter of support), advised the Senator of the funding approval and requested that he liaise with the successful applicant and the Northern Rivers ACC to arrange a public announcement.

2:3.71 A letter from the then Minister to the Member for Richmond advised that: 'Funding has recently been approved under the *Regional Partnerships* program to Byron Bay Shire Council for its Mullumbimby Civic Hall Refurbishment project in your electorate.' As was the practice of the Office of the then Minister, that letter was also date stamped 12 April 2006, but it is not clear from DOTARS' records whether it was dispatched on that date, or held pending the public announcement of the grant approval. Senator Macdonald issued a Media Release announcing the funding on 26 April 2006.

2:3.72 In this context, two of the changes to the Regional Partnerships Programme proposed to the Prime Minister by the then Minister for Transport and Regional Services in October 2005 were that:

> Guidelines be developed to clarify the role of Members and Senators in the development and sponsorship of projects to avoid criticism that their role reflects a political rather than electorate interest;
>
> and
>
> Local Members of Parliament be consulted as part of the process of developing each ACC strategic plan.

2:3.73 In November 2006, DOTARS advised ANAO that this proposal was implemented by the department developing *Guidelines for ACCs on Consulting with Local MPs and Senators*. DOTARS further advised that these guidelines were considered and approved by the Ministerial Committee on 13 September 2006, subject to some minor changes and consultation with the ACC Chairs' Reference Group. After obtaining the agreement of the Chairs' Reference Group to the revised guidelines, the document was distributed to the ACC network on 9 October 2006.

2:3.74 In relation to the announcement of approved grants, the guidelines state:

> The role and involvement of MPs and Senators regarding the announcement of funding under *Regional Partnerships* is outlined in the Procedures Manual. Procedures for successful project proponents regarding launches and Government representation are also included in the Manual.

2:3.75 As indicated by their title, the guidelines are focused on ACC Chairs, members and staff working cooperatively with their local Members of Parliament. As a result, they did not clarify what, if any, role local Members and Senators may play in the on-going promotion of projects to the Minister once the application has been submitted to DOTARS and the relevant ACC has decided upon its rating and recommendation (as is discussed further in Chapter 6 in this part of the audit report.)

Timing of grant announcements

2:3.76 The announcement of funding approvals through this process normally occurred shortly after the decision had been taken because, in most cases, the approach adopted was that the letters from the Minister formally advising the applicant, applicable ACC Chair and, where relevant, non-Coalition local Member of the approval were withheld until the public announcement had been made. Further, it has generally been the case that the department is not to contact a successful applicant to begin preparation of a Funding Agreement until the grant approval has been publicly announced.[211]

2:3.77 As noted, there was a significant escalation in the rate of grant approvals in the period leading into the 2004 election, including a number of grants approved on 31 August 2004 prior to the 5:00 pm commencement of the caretaker period. Notwithstanding the increased tempo of project approvals, there was a significant delay in announcing some of those grants.

2:3.78 For example, grants for two projects located in the Labor-held provincial seat of Capricornia[212], approved on 27 August 2004 and 31 August 2004 respectively, were not announced until well into the election campaign. This issue is discussed in ANAO's case study of one of those projects, RP00936

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[211] However, the documentation of this process became less clear from mid-2005 when projects began to be submitted for Ministerial consideration on an individual basis rather than as packages.

[212] This seat was categorised by the Australian Electoral Commission as 'Fairly Safe Labor' prior to the 2004 election and 'Marginal Labor' after the election.

Horse Australia 2005. The other project was RP00935 Multipurpose Community Activities Centre, involving the construction of a multipurpose centre at Shalom Village in Rockhampton, which was approved for Regional Partnerships funding of $220 000 (plus GST) by the then Parliamentary Secretary on 27 August 2004. Letters from the Parliamentary Secretary advising the applicant and Central Queensland ACC Chair of the funding were also date stamped 27 August 2004, but it is unclear whether they were dispatched on that date.

2:3.79 As this recommended project was located in a non-Coalition electorate, the department had prepared a letter inviting Senator the Hon Ron Boswell, Senator for Queensland, to announce the funding. However, the letters to the applicant and ACC advised that the then Parliamentary Secretary had written to the Hon John Anderson MP, the then Minister for Transport and Regional Services, asking that he make suitable arrangements to announce the grant publicly. On 17 September 2004, the Departmental Liaison Office to the Parliamentary Secretary's Office advised the department of a number of projects that had been announced and could now be contracted. This included RP00935, which the department was advised would be announced that day (see Figure 2:3.6).

Figure 2:3.6

Media Release announcing grant for RP00935 Multipurpose Community Activities Centre approved on 27 August 2004

MEDIA RELEASE

The Hon John Anderson MP

Deputy Prime Minister
Minister for Transport and Regional Services
Leader of The Nationals

17 September 2004
A125/2004

REGIONAL PARTNERSHIPS FUNDING FOR SHALOM VILLAGE

A Multi-purpose Community Activities Centre will be built at Shalom Village in Rockhampton with the help of a $242,000 Regional Partnerships grant from the Coalition.

The Deputy Prime Minister and Leader of The Nationals, John Anderson, and Nationals candidate for Capricornia, John Lever, announced the funding commitment today.

Mr Anderson said the Multipurpose Activities Centre would build on the great facilities already available to residents at Shalom Villiage.

"The Centre will strengthen and provide greater opportunities for both economic and social participation in the community by older people," Mr Anderson said.

"Residents, staff, and volunteers from the community will join together to provide function and training venues, and catering options, for not only the residents, their families and friends but the broader local community.

"The Centre will include a coffee shop, library, gift/craft shop, post box, vending machines and a lounge area. It will provide opportunities for mature-aged people to be involved in helping run the centre and maintain active and productive participation in the workforce and the community.

"I would like to congratulate the Baptist Union of Queensland for its ongoing commitment and dedication to providing quality care for the aged," Mr Anderson said.

Mr Anderson said by 2053 it is expected that a quarter of the Australian population could be aged 65 years and over. Based on these projections it is vitally important that we invest in aged care.

"Through strong and responsible econonic management over the last 8 ½ years the Coalition has been able to deliver major funding improvements for the aged care sector.

"The 2004 Budget included a $2.2 billion investment in aged care. The Investing in Australia's Aged Care: More Places, Better Care package included an additional 27,900 aged care places across Australia.

"Too much is at stake to risk a Labor government. Labor's poor record of economic management would imperil Australia's ability to afford a prosperous future for our ageing population," Mr Anderson said.

The grant was approved by the government before the start of the caretaker period.

Source: Media Release, The Hon John Anderson, 17 September 2004, A125/2004.

2:3.80 DOTARS' records do not include any record of a letter to the Labor Member for Capricornia advising of the funding approval for that project.

2:3.81 Another example of a delayed announcement related to RP00505 Blayney Sea-Link Services project, located in the Independent-held electorate of Calare. Regional Partnerships funding of $250 000 (plus GST) was approved for that project at 3:26 pm on 31 August 2004. On 29 September 2004, the Departmental Liaison Officer to the Office of the then Parliamentary Secretary advised the department that the grant had been announced and could now be contracted. The then Minister released a Media Release announcing the funding on the same day. Letters from the then Parliamentary Secretary advising the applicant, Central West ACC Chair and Independent Member for Calare of the funding approval were also dated 29 September 2004.

2:3.82 Prior to the 2004 election, the Parliamentary Secretary with primary responsibility for the Regional Partnerships Programme was the Hon De-Anne Kelly MP, the Member for Dawson. Applications relating to projects located in the Parliamentary Secretary's electorate were referred to the then Minister for Transport and Regional Services for decision. ANAO noted a number of grants approved for applicants in Dawson that were not announced until some time after the then Minister had approved the funding. These included:

- RP00534 Vision Whitsunday 2015 approved for $40 000 (plus GST) by the then Minister on 8 June 2004, subject to all of the proposed State Government co-funding being officially committed. A letter from the then Minister advising Mrs Kelly, as Member for Dawson, of the grant approval and inviting her to make arrangements to announce the grant publicly was dated 17 June 2004. Mrs Kelly announced the funding in a Media Release dated 14 September 2004.[213] Letters from the then Minister advising the successful applicant and Chair of the Mackay Region ACC of the funding approval were dated 19 October 2004;
- RP00561 Mackay Hemp and Kenaf Trial ($10 000 plus GST), RP00581 Skate Sarina ($7 500 plus GST) and RP00586 Community Facility Sarina Beach ($22 000 plus GST), each of which were approved for Regional Partnerships funding without condition by the then Minister on 25 June 2004. Letters from the then Minister advising Mrs Kelly of each of the approvals and inviting her to make arrangements to announce the grants publicly were also dated 25 June 2004. Mrs Kelly issued a Media Release announcing the first grant on 22 September 2004 and a Media

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[213] DOTARS' records do not identify whether the announcement was delayed pending confirmation of the co-funding. However, as is discussed further below, this was not the approach normally taken.

Release jointly announcing the other two grants on 28 September 2004. Letters from the then Minister advising the successful applicant (Sarina Shire Council in each case) and the Chair of the Mackay Region ACC of the funding approvals were each dated 19 October 2004; and

- RP01150 Burdekin Community Rehabilitation Unit Access Project, which the then Minister approved without condition for Regional Partnerships funding of $154 300 (plus GST) on 31 August 2004. In this case, the letters to Mrs Kelly, the applicant and North Queensland ACC Chair were all also dated 31 August 2004. However, it is not clear from DOTARS' records as to whether all were dispatched on that date. Despite the letter to Mrs Kelly having requested that she make suitable arrangements to announce the grant publicly, the then Minister issued a Media Release himself announcing the funding. This did not occur until 5 October 2004.

Announcing conditional approvals

2:3.83 The announcement of grant approvals without making reference to conditions that must be satisfied before the funding will actually be provided is an issue of heightened sensitivity during the lead-up to an election. In the interests of transparency, it is prudent for any announcement of grants that are subject to conditions to make reference to these circumstances. The reference should be designed to avoid misunderstandings should the conditions not be satisfied.

2:3.84 In this context, it has been a common practice under the Regional Partnerships Programme for funding to be approved for a project subject to certain conditions being subsequently satisfied. Of the 983 grants approved between July 2003 and June 2006, 397 (40 per cent) were approved subject to the funding recipient subsequently satisfying one or more funding conditions. However, on very few occasions did the public announcement of the grant make reference to the conditions attached to the funding approval.

Announcing conditional funding approvals during an election campaign

2:3.85 The caretaker period for the 2004 Federal election began at 5:00 pm on 31 August 2004. Of the 395 grants approved between 1 January and 31 August 2004, 159 (40 per cent) were approved subject to one or more conditions being subsequently satisfied. In some cases, the funding approval was announced by the then Minister or the then Parliamentary Secretary. In most cases, however, the local Coalition Member (or duty Senator for non-Coalition electorates) announced the funding. During this period, where funding was approved conditionally, the letter from the approving Minister officially advising the local Coalition Member or duty Senator of the funding approval identified the funding conditions and invited them to announce the funding ‘once those conditions have been satisfied’.[214] However, in no case was the funding announcement delayed pending satisfaction of the funding condition(s).

2:3.86 Further, the draft Media Release prepared by DOTARS and provided to the local Member did not include reference to the funding conditions. Of the 159 grants approved between January and August 2004 subject to one or more conditions, ANAO identified only one case in which the announcement of the grant made explicit reference to the funding condition. This related to RP00845 Junee Medical Centre, where the announcement of the funding condition occurred in the context of the election campaign.[215]

2:3.87 As discussed above, a number of projects approved in the months leading up to the 2004 election subsequently experienced significant delays due to difficulties in satisfying all funding conditions. In some cases, the project has not proceeded due to the applicant’s inability to satisfy the conditions of funding. This issue was discussed, for example, by the Senate Committee in relation to RP01319 A2 Milk Processing. In that case, the grant of $1.153 million (plus GST) was approved on 29 August 2004 subject to a number of conditions, including satisfactory resolution of the company structure for the creation of the entity that would be the funding recipient.[216] The grant was announced on 8 September 2004, during the 2004 election

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[214] The reference to announcing Regional Partnerships grant approvals after funding conditions had been satisfied was later omitted from letters sent to local Members.

[215] The then Parliamentary Secretary approved funding of $250 000 (plus GST) on 27 August 2004. The department had recommended that funding not be approved on the basis that the application did not satisfy the outcomes criterion and only partially satisfied the partnerships criterion. This assessment was in part based on upon the Council applicant’s stated intention to proceed with construction of the Centre as one part of its CBD redevelopment project, irrespective of the success of the Regional Partnerships application, and advice from NSW Health that the $250 000 State funding contribution proposed in the application was unlikely to be provided. The Media Release announcing the Regional Partnerships funding, issued by the Member for Riverina on 1 September 2004, noted the funding condition and stated in part: ‘I have continued to lobby the Parliamentary Secretary to the Minister for Transport and Regional Services De-Anne Kelly concerning the importance of this local project and am thrilled with the news that she has agreed to this Commonwealth co-funded project…I call on the NSW Government to contribute their funding to this project for the benefit of Junee residents.’ The State Government funding was not obtained. On 23 December 2004, the new Parliamentary Secretary agreed to waive the funding condition on the basis that the Council applicant would make up the shortfall itself.

[216] Due to the low level of partnership funding for a commercial venture of this nature, the departmental assessment submitted to the then Parliamentary Secretary on 27 August 2004 had recommended partial funding of $478 599 (plus GST), subject to a number of conditions.

campaign, without reference to the funding conditions. The main project proponent went into voluntary administration on 4 October 2004 and the company that was to be the recipient of the grant was never formed.

2:3.88 The Senate Committee found that the announcement of the grant and its subsequent withdrawal 'had a negative impact on the already fragile Atherton Tablelands dairy industry'[217] and noted that:

> The Committee believes the government must consider delaying grant announcements until all conditions of the grant have been met in full.[218]

2:3.89 In this respect, ANAO notes that on 30 September 2004, DOTARS had advised the then Deputy Prime Minister and Minister for Transport and Regional Services that:

> There was a court hearing in the Queensland Magistrates Court on 29 September 2004 relating to advertising claims made by A2 Dairy Marketers Pty Ltd about the health properties of A2 milk. The court ruled that A2 Dairy Marketers Pty Ltd breached the Food Act 1981 and was fined $15 000 for making misleading health claims about A2 milk…
>
> The Department has contacted A2 dairy Marketers since yesterday's ruling. They are confident of being able to pay the fine and do not see the ruling as impacting on their future sales as they had already altered their advertising to meet Queensland Health Department requirements under the Act. They also advised they were confident of meeting the conditions…required to finalise a funding agreement.

2:3.90 On the same day, the Chief of Staff to the then Minister annotated the Minute as having been discussed with the Minister, and advised the department that:

> Given the issues that have arisen since the original approval was given, the DPM has asked that this matter not be progressed and that it be resubmitted after the election on 9 October for his consideration.

2:3.91 This advice indicates a rescinding by the then Minister of the earlier approval of funding such that further Ministerial endorsement would be required before the project could proceed. Despite the earlier unconditional

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[217] The Senate Committee reported that: 'The announcement of the grant with its implications of government support for the project had instilled confidence in local farmers that the project was viable and would go ahead. This encouraged a number of farmers to invest in testing their herds for, or purchasing, A2 cows. Several more spent time and money adjusting their business plans towards producing A2 milk.' (Senate Committee Report, op. cit., p. 116.)

[218] ibid., pp. 115 and 117.

public announcement of approved funding for the project, there was no record held by DOTARS of any advice being provided to the project proponent regarding the revised status of the application.[219] Nor was any public announcement made.

2:3.92 In the course of the Senate Committee's inquiry, the department advised the Senate Committee that:

> …funding was conditional on the confirmation of cofunding, an independent viability assessment of the project and the establishment of the new company, Star International Group, which was partially owned by local dairy farmers. As committee members would be aware, the proponents of the application recently went into liquidation and, as the conditions attaching to the grant were not met, no grant moneys have or will be paid.[220]

2:3.93 However, DOTARS did not advise the Senate Committee of the then Minister's decision of 30 September 2004.

Rationale for practice of not announcing funding conditions

2:3.94 The practice of not publicly announcing the conditions attached to a funding approval has continued since the 2004 election. The basis for this approach was identified by the department in advice provided to then Parliamentary Secretary Cobb in November 2004 in relation to RP01253 Maryborough Sugar Factory Stockfeed Project (also known as the Australian Prime Fibre Project-Phase 2). As discussed at paragraph 2:2.89, that project was not recommended by the department but had been approved for funding of $400 000 (plus GST) by his predecessor, Mrs Kelly, on 31 August 2004.

2:3.95 The broad project aim of the project was to convert dried sugar cane tops, lucerne and other green crops and organic waste into stock feed for sale into export markets. Phase 1 had involved market research and project feasibility analysis. Phase 2, for which Regional Partnerships funding was sought, involved a simulation/trial of the methodology. Phase 3 would involve site/plant establishment. Mrs Kelly approved funding at 4:03 pm on 31 August 2004 subject to:

- an independent financial viability assessment;

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[219] DOTARS' records identify that the department intended to discuss the next steps in relation to the project after the election and once requested information had been received from the proponent.

[220] Senate Committee Report, op. cit., p. 111.

- the establishment of a company to share the benefits and profits of this venture with the cane farmers in the area supplying the mill; and
- the granting of $5.5 million in Commonwealth funding from the Sugar Industry Reform Programme.[221]

2:3.96 The grant was jointly announced by the Member for Wide Bay, the Hon Warren Truss MP, and the then Minister for Transport and Regional Services during the 2004 election campaign, on 14 September 2004. The Media Release made no reference to the conditional nature of the grant approval, including in relation to the requirement that the applicant obtain the $5.5 million in Sugar Industry Reform Programme funding for Phase 3 before the Regional Partnerships funding would be forthcoming. On 16 November 2004, the department advised Mr Cobb that:

> This Department is aware that Mr Truss and the applicant were informally advised of Mrs Kelly's decision to conditionally approve funding for this project. Mr Truss consequently announced the $400 000 Regional Partnership Grant on 14 September, during the caretaker period. However, as is normally the case in these instances Mr Truss' Press Release did not mention the conditions imposed by Mrs Kelly, based on the assumption that all interested parties would have been formally advised of the conditions. It has since been confirmed that the letters formally advising the outcome of this decision have not yet been sent to the interested parties.
>
> **Issues**
>
> Decision to approve funding with conditions was made prior to the commencement of the caretaker period. There may be some confusion as to whether the conditions are still to apply as no formal notification was sent to interested parties prior to Mr Truss' announcement on the funding being granted.
>
> The financial viability of the total project has been clarified in the interim: we have confirmed that the sustainability of the project depends solely on the granting of the $5.5 million in Australian Government funding from the Sugar Industry Reform Program (SIRP), the funding requested from the *Regional Partnerships* Programme being required to trial the concept.

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[221] However, the documented approval did not address how this funding condition could be expected to be satisfied, when obtaining that funding would be dependent on the successful proving of the concept through Phase 2.

> **Options**
>
> The options available to you are to confirm, remove or vary the conditions agreed by Mrs Kelly. The Department understands that the applicant has concerns about the practicality of establishing a company to share the benefits and profits of this venture with the cane farmers in the area supplying the mill: this may be a condition you may wish to vary.
>
> However, our view is that the total project is not viable and will not achieve its intended outcomes without the granting of $5.5 million in Australian Government funding from the Sugar Industry Reform Program (SIRP).

2:3.97 The department recommended that Mr Cobb confirm the earlier decision to conditionally approve funding for the project. On 6 December 2004, Mr Cobb disagreed and decided to waive the remaining conditions[222], noting:

> In the interim the project was also supported as a commitment during the federal election and announced jointly by the Deputy Prime Minister, the Hon John Anderson and the Minister for Agriculture, Fisheries and Forestry, the Hon Warren Truss…The anticipated structural adjustment and employment outcomes from this project cannot be achieved until the successful completion of Phase 2 and the granting of $5.5 million in Commonwealth funding from the Sugar Industry Reform Program (SIRP) for Phase 3 of the project.
>
> And in recognition of the fact that the $5.5 million applied for under the Sugar Industry Reform Program (SIRP) (Phase 3) is conditional upon Phase 2 having been successfully completed, I am therefore agreeing to Regional Partnerships funding of $440 000 (GST inclusive) to undertake Phase 2 of the project.[223]

2:3.98 In this respect, ANAO notes that it has been the practice under the Regional Partnerships Programme for the public announcement of a grant to occur prior to the formal notification of the approval and any associated conditions being provided to the applicant or other interested parties by the Ministerial decision-maker. Further, given successful applicants are directly advised of the grant approval and any conditions that they must satisfy in

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[222] Mr Cobb's recorded reasons noted: 'My Department has now advised that since that time the independent financial viability assessment has been undertaken, and has been satisfied.' The project documentation examined by ANAO included an applicant viability assessment, but not a financial viability assessment of the proposed project. Mr Cobb agreed to waive the condition to establish a new company to share the benefits and profits of the project with growers on the basis: 'I am satisfied that the growers will share the financial benefits from this project once it is fully developed as a value adding enterprise'.

[223] Regional Partnerships payments totalling $176 050 (GST inclusive) were made in relation to this grant. In November 2005, the funding recipient requested an early termination of the existing Funding Agreement, advising DOTARS that initial trials were indicating that the process it had intended to use had an unacceptable level of risk and it intended to pursue trialling and business case development for an alternative technique.

order to receive the approved funds, the public announcement of grant approvals must, necessarily, involve an element of promotion to the broader community.

2:3.99 In that context, it is not clear why the public announcement of a grant of public money should not provide the intended audience of that announcement with all relevant information in relation to the grant, including appropriate reference to the existence of any funding conditions. This is particularly the case given that, in some cases, an inability to satisfy the funding conditions has resulted in the project not proceeding or in there being significant delays.

Recommendation No.4

2:3.100 ANAO *recommends* that the Department of Transport and Regional Services:

(a) examine, and advise the Ministerial Committee on, options that promote timely announcement of successful applications for Regional Partnerships funding; and

(b) amend its administrative procedures for preparing draft announcement material for approved Regional Partnerships grants to make appropriate reference to any funding conditions.

DOTARS response

2:3.101 Agreed.

2:4 Funding Election Commitments

This chapter discusses the requirements for the approval of Regional Partnerships funding for projects that relate to political commitments made in an election campaign.

Background

2:4.1 Under Australia's federal system of representative democracy, Ministers of State (including Parliamentary Secretaries) have, as part of the inherent executive power under the Constitution for the administration of their department, the power to approve the expenditure of public money that has been appropriated to that department. Ministers retain that power until they resign or are dismissed, including during and immediately after a general election until a new government is able to be formed.

2:4.2 After a general election, the Governor-General appoints as Prime Minister the person who can form a ministry that has the confidence of the House of Representatives. Other ministers are appointed by the Governor-General on the advice of the Prime Minister. The resignation of the existing Prime Minister following a general election for the House of Representatives terminates the commissions of all other ministers. Even where the same party or parties are returned to power, the resignation of the old ministry, followed by the appointment of a new ministry, is now accepted as the appropriate course to follow.[224]

2:4.3 The Parliamentary and statutory framework within which Ministers operate includes a number of checks and balances designed to protect accountability for the expenditure of public money and limit the extent to which the incumbent government is able to take decisions that may bind any incoming government. This includes a combination of the observance of non-binding conventions and the statutory framework governing the expenditure of public money.

Caretaker conventions

2:4.4 Successive governments have accepted that, during the period preceding an election for the House of Representatives, the government

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[224] Australian Government Solicitor, Legal Briefing Number 72, *After the election–what happens?*, 29 October 2004, pp. 1–2.

assumes a 'caretaker role'.[225] In this respect, a series of practices have developed, known as the 'caretaker conventions', which aim to ensure that the incumbent government's actions do not unduly bind an incoming government and limit its freedom of action.

2:4.5 The caretaker period begins at the time the House is dissolved and the writs for the election are issued, and continues until the election result is clear or, if there is a change of government, the new government is appointed. The caretaker period in respect to the 2004 Federal election commenced at 5:00 pm on 31 August 2004. The actions of the then Parliamentary Secretary with responsibility for Regional Partnerships leading up to that time clearly demonstrated an acceptance that the approval of grants should not occur during the period to which the caretaker conventions applied. In particular, the Parliamentary Secretary noted the precise time of all funding decisions made by her on 31 August 2004 in order to demonstrate that no decisions were taken after 5:00 pm, as shown in Table 2:4.1.[226]

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[225] This practice recognises that, with the dissolution of the House, the Executive cannot be held accountable for its decisions in the normal manner, and that every general election carries the possibility of a change of government. Source: Department of the Prime Minister and Cabinet, *Guidance on Caretaker Conventions*, July 2004, p. 2.

[226] A further project submitted by the department for Ministerial consideration on 31 August 2004, Burdekin Community Rehabilitation Unit Access Project, was located in the then Parliamentary Secretary's electorate and, therefore, was submitted to the then Minister for Transport and Regional Services for decision. The departmental recommendation that funding be approved was stamped 'Signed by Minister 31 Aug 04', but a copy of the Minute carrying the then Minister's signature was not held by DOTARS.

Table 2:4.1

Funding decisions taken by Parliamentary Secretary on 31 August 2004

Project	Funding Approved (GST exclusive)	Time of Approval[A]
Denmark Community Windfarm	$218 470	3:25 pm
Torres Strait Cultural Centre Café Fitout	$150 000	3:26 pm
Daylesford Recreation Centre	$120 000	3:26 pm
Blayney Sea-Link Services	$250 000	3:26 pm
Archerfield Aerospace Business Infrastructure Development Project	$75 000	3:27 pm
Small Town Residential Development	$20 000	3:28 pm
Community Door	$20 000	3:34 pm
Augusta Regional Hydrotherapy Centre	$112 640	3:35 pm
Horse Australia 2005	$200 000	3:37 pm
MSM Milling	$768 789	3:40 pm
Rotary Lodge–First Floor Extension	$202 922	3:44 pm
Mount Beauty Children's Centre	$127 000	3:45 pm
Brisbania Out of School Hours Care Building	$120 431	3:47 pm
GMR Heritage Restoration Project Stage 1	$213 971	3:48 pm
Maryborough Sugar Factory Stockfeed Project[B]	$400 000	4:03 pm
South Burnett Aquatic Centre–Hydrotherapy Pool[B, C]	$350 000	4:16 pm
Total	**$3 349 223**	

Notes:

[A] There were no projects not approved by the then Parliamentary Secretary on 31 August 2004.

[B] These projects were not recommended for funding by DOTARS.

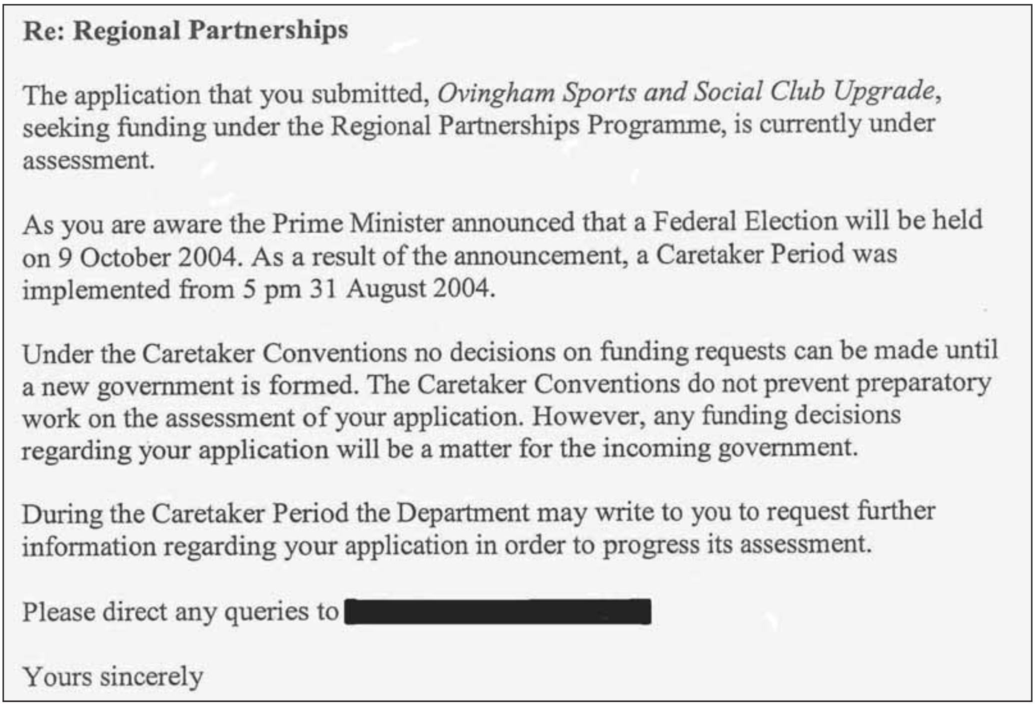
[C] This project was submitted for decision by the department on 5 August 2004. The remaining projects were submitted for decision on 31 August 2004.

Source: ANAO analysis of DOTARS records.

2:4.6 The acknowledgement that no Regional Partnerships funding decisions would be taken during the election campaign due to the caretaker conventions was further reinforced in letters provided to applicants whose application had yet to be decided at the time the election was called. Those applicants were advised by DOTARS that any funding decisions regarding their application would be a matter for the incoming government. For example, Figure 2:4.1 sets out the caretaker period letter sent by DOTARS on 6 September 2004 in relation to the application for RP01244 Ovingham Sports and Social Club Upgrade project.

Figure 2:4.1

Caretaker period letter to applicant regarding Ovingham Sports and Social Club Upgrade project



Re: Regional Partnerships

The application that you submitted, *Ovingham Sports and Social Club Upgrade*, seeking funding under the Regional Partnerships Programme, is currently under assessment.

As you are aware the Prime Minister announced that a Federal Election will be held on 9 October 2004. As a result of the announcement, a Caretaker Period was implemented from 5 pm 31 August 2004.

Under the Caretaker Conventions no decisions on funding requests can be made until a new government is formed. The Caretaker Conventions do not prevent preparatory work on the assessment of your application. However, any funding decisions regarding your application will be a matter for the incoming government.

During the Caretaker Period the Department may write to you to request further information regarding your application in order to progress its assessment.

Please direct any queries to [redacted]

Yours sincerely

Source: Letter of 6 September 2004 from DOTARS to applicant of RP01244 Ovingham Sports and Social Club Upgrade project [*name deleted*].

2:4.7 Further acceptance that the caretaker conventions applied to the approval of Regional Partnerships grants was apparent from the inclusion in some Media Releases issued during the election campaign of specific reference to the grant having been approved prior to the beginning of the caretaker period. The acceptance of the application of the caretaker conventions was also evident in the November 2006 Government response to the Senate Committee's recommendation that extended 'caretaker-like' procedures be applied to improve the accountability of ministerial discretion in relation to Regional Partnerships grant approvals during the lead up to the calling of an election. In particular, the Government response to the Committee report stated that:

> Established caretaker conventions already exist which prescribe grant decision making practice ahead of an election. The Committee found no evidence that

there was any breach of caretaker conventions prior to the 2004 election in the case of these programmes.[227]

Post-election funding of commitments made during an election campaign

2:4.8 Except where a Minister with the necessary authority has approved spending for the relevant project, party election policies and other election commitments announced during an election campaign represent undertakings to provide certain funding, services or facilities in the event the relevant party is elected or re-elected to government. Any use of public money to fulfil such political undertakings may only occur in accordance with the financial framework that governs the expenditure of funds from the Consolidated Revenue Fund, being:

- the availability of a valid appropriation at law; and
- satisfaction of the requirements of relevant legislation governing the expenditure of public money.

2:4.9 Regardless of the manner in which the appropriation of funds is sought from the Parliament[228], any decision by a Minister or authorised official to approve the expenditure of public money from that appropriation on satisfying an election commitment must be undertaken in a manner that is consistent with the requirements of the FMA Regulations.

2:4.10 In this context, it is important to note that the terms of Regulation 9 are to be read conjunctively. That is, it is not permissible for a Minister to approve a spending proposal solely on the basis that, as an election commitment, it can be considered a policy of the government. Regardless of whether a project was the subject of an election commitment, an approver, including a Minister, may only approve spending proposals where reasonable inquiries have been

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[227] In this respect, ANAO notes that the existing caretaker conventions only apply to decisions taken after the writs for an election have been issued. They do not apply to the approval of grants in the period leading up to the calling of an election by the Prime Minister.

[228] A returned or incoming government may choose to fund commitments made during the election campaign through:

- an existing appropriation for a particular relevant programme (that is, absorb the cost of election commitments within existing available funding for that programme); and/or
- additional appropriations sought through the annual Budget process or special appropriation for specific expense measures relating to election commitments.

undertaken in order to satisfy the approver that the proposed expenditure would make efficient and effective use of the public money.

Allocation of election commitments to the Regional Partnerships Programme

2:4.11 Following the 2004 Federal election, the Department of the Prime Minister and Cabinet (PM&C) co-ordinated the identification of all election commitments made during the election campaign in Coalition party policy documents and by Liberal and National Party candidates, including incumbent Ministers. PM&C and the Prime Minister's Office then also co-ordinated the process of determining which portfolio a particular commitment should be allocated to for administration, and the source of funds that would be used in respect of each commitment.

2:4.12 Initially, the Regional Partnerships Programme was identified as the funding source for 76 election commitments, many of which DOTARS expected to be absorbed into existing Regional Partnerships resources. The expectation within DOTARS at that time was that additional Budget funding would only be sought for the commitments made in major Coalition election policies.

2:4.13 Ultimately, 38 Coalition election commitments were allocated to DOTARS to administer through the Regional Partnerships Programme, comprising 36 specific projects and two broader measures (being the Bank@post and Rural Medical Infrastructure Fund initiatives). Additional Budget funding was provided through the 2004–05 Additional Estimates and 2005–06 Budget processes in relation to all election commitments allocated for administration through the Regional Partnerships Programme.

2:4.14 The election commitment projects allocated to Regional Partnerships consisted of:

- six 'icon' projects identified in the 24 September 2004 *Investing in Our Regions* election policy;

- 16 commitments made in the 7 October 2004 *Strengthening Tasmania's Economy and Building A Better Community* election policy[229];
- one commitment made in the 17 September 2004 *Supporting Kalgoorlie* election policy;
- one commitment made in the 21 September 2004 *Supporting North Queensland* election policy; and
- 12 commitments announced by Coalition candidates through media releases or other announcements.

2:4.15 Table 2:4.2 identifies the distribution across party electorates of election commitment projects administered through the Regional Partnerships Programme.

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[229] Those 16 projects represented 44 per cent of the Coalition 2004 election commitment projects allocated to DOTARS to administer through the Regional Partnerships Programme and seven per cent of the total value of election commitments allocated to Regional Partnerships. It is noteworthy that all were located in electorates held by the Labor party prior to the 2004 election, 10 in marginal electorates. By way of comparison, projects located in Tasmania represented three per cent of applications to the Regional Partnerships Programme between July 2003 and June 2006, and three per cent of applications approved for Regional Partnerships funding over the same period (two per cent of the total value of approved grants over that period).

Table 2:4.2

Distribution of 2004 election commitment projects allocated to Regional Partnerships–by party

Party that held the electorate when the election commitment was announced	Number of commitments	Percentage of commitments	Value of commitments	Percentage of value
Labor	***18***	***50.0%***	***$3.078 million***	***7.5%***
Marginal Labor	11	30.5%	$2.197 million	5.4%
Fairly Safe Labor	5	13.9%	$0.565 million	1.4%
Safe Labor	1	2.8%	$0.250 million	0.6%
Various Labor	1	2.8%	$0.066 million	0.1%
Liberal	***9***	***25.0%***	***$9.615 million***	***23.4%***
Marginal Liberal	7	19.4%	$8.955 million	21.8%
Fairly Safe Liberal	1	2.8%	$0.200 million	0.5%
Safe Liberal	1	2.8%	$0.460 million	1.1%
National	***7***	***19.4%***	***$17.360 million***	***42.3%***
Marginal National	2	5.5%	$6.500 million	15.8%
Fairly Safe National	4	11.1%	$8.860 million	21.6%
Safe National	1	2.8%	$2.000 million	4.9%
Independent	***2***	***5.6%***	***$11.000 million***	***26.8%***
Fairly Safe Independent	1	2.8%	$6.000 million	14.6%
Safe Independent	1	2.8%	$5.000 million	12.2%
Total	**36**	**100%**	**$41.053 million**	**100%**

Source: ANAO analysis of DOTARS records.

2:4.16 In this context, as part of the process of allocating election commitments to portfolios for administration, departments are responsible for assessing, and providing early advice to Government on, whether commitments fit within existing programme arrangements. Where they do, the practice is that departments are able to manage the commitments within the framework of the existing programme. When they do not, it is important that Ministers are informed so that alternative options for delivering on, and funding, the commitments can be considered.

Extant Regional Partnerships applications announced as election commitments

2:4.17 The practice of announcing existing grant applications as election commitments presents some difficulties, particularly relating to equity when it is not clear to the wider community why particular applications were selected for announcement. This is particularly the case given, as noted, applicants had been advised that, under the caretaker conventions, decision-making in relation to existing applications had been suspended for the duration of the election campaign and would be a matter for an incoming government. It is generally only the incumbent government that is in a position to know of extant Regional Partnerships applications that could be announced as election commitments.

2:4.18 Against this background, Coalition election commitments announced during the 2004 election campaign included 15 projects for which an application for Regional Partnerships funding had been submitted to DOTARS. Table 2:4.3 sets out the election commitments that related to projects for which a Regional Partnerships application had been submitted, the status of the application at the start of the caretaker period, the amount originally applied for and the amount announced as an election commitment.

2:4.19 For many of the projects identified in Table 2:4.3, there was no documentation held by DOTARS identifying how or why the existing application had been identified for inclusion in a Coalition policy document or otherwise announced as an election commitment. However, in many cases, the local Coalition Member and/or the Office of a Transport and Regional Services portfolio Minister or Parliamentary Secretary had shown particular interest in the project.[230]

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[230] This was the case, for example, in relation to: RP01244 Ovingham Sports and Social Club Upgrade; RP01184 Provision of Rescue Services for the Central Coast; RP01228 Mandurah War Memorial; RP01019 Mount Isa Rodeo and Regional Events Complex; and RP01300 Australian Equine and Livestock Centre. It was also the case in relation to the application relating to RP01151 Mackay Region Science & Technology Precinct, which was withdrawn on 12 August 2004.

Table 2:4.3

2004 election commitments for projects for which a Regional Partnerships application had been submitted

Project	Date applied[A]	Amount applied for	Status at start of caretaker period	How EC announced	EC amount
Mackay Science & Technology Precinct	8 July 04	$7.7 million	Withdrawn 12 Aug 04.	*Investing in Stronger Regions* (24 Sep 04). (Also Media Release 21 Sep 04 for AELC)	$8 million
Dalby Wambo Covered Arena	8 June 04	$1 million	Withdrawn 24 Aug 04, to revise application.		$2 million
Mt Isa Regional & Rodeo Events Complex	27 July 04	$5 million	In assessment.		$5 million
Australian Equine and Livestock Centre (AELC)	13 Aug 04	$6 million	In assessment.		$6 million
Newman Town Centre Revitalisation 2005	30 Aug 04	$50 000	In assessment.	*Supporting Kalgoorlie* (17 Sep 04).	$50 000
Feasibility study of upgrade of Kingsborough Sports Centre[B]	29 July 04	$5 000	In assessment.	*Strengthening Tasmania's Economy and Building a Better Community* (7 Oct 04).	$5 000
Callington Mill Precinct Master Plan[B]	10 Sep 04	$100 000	Submitted after start.		$100 000
Emu Valley Rhododendron Gardens–Interpretation/Visitor Centre	21 Sep 04	$85 000	Submitted after start.		$200 000
George Town Memorial Hall Redevelopment	4 Oct 04	$250 000	Submitted after start.		$250 000
Mandurah War Memorial	29 July 04	$250 000	In assessment.	Media Release Member for Canning (13 Sep 04)	$250 000
Final Engineering & Planning – Brisbane to Darling Downs Recycled Water Initiative	9 July 04	$460 000	In assessment.	Media Release Member for Maranoa (21 Sep 2004) & Announcement,	$460 000

Project	Date applied[A]	Amount applied for	Status at start of caretaker period	How EC announced	EC amount
				Deputy Leader of the Nationals (22 Sep 04)	
Central Coast Volunteer Rescue Squad	14 July 04	$206 200	Being re-worked by ACC and applicant in order to fit Regional Partnerships Guidelines.	Media Release Member for Dobell. (MP's Office advised DOTARS was released 22 Sep 04).	$125 000
Pambula SLSC and Community Centre Building Project[B]	31 Aug 04 (8:49 am)	$250 000	Received by DOTARS.	Media Release Member for Eden-Monaro (26 Sep 04)	$250 000
Development of Amenities/training block (Ridge Hills United Football Club)[B]	2 Sep 04	$150 000	Submitted after start.	Media Release Member for Petrie (8 Sep 04)	$150 000
Ovingham Sports and Social Club Upgrade[B]	6 Aug 04	$41 000	In assessment.	Media Release Member for Adelaide (15 Sep 04).	$30 000

Notes:

[A] Where available, this is the date the application was received by DOTARS, by whatever means. Otherwise, this is the date the application was submitted into TRAX.

[B] The election commitments relating to these projects were ultimately transferred to a different department to administer.

Source: ANAO analysis of DOTARS' records.

2:4.20 Two of the 15 applications had been formally withdrawn shortly before the caretaker period commenced, for example due to the fact that the project as submitted demonstrably did not satisfy the Programme assessment criteria. The election commitments in respect to both of those projects were allocated for administration within the Regional Partnerships Programme following the election.

2:4.21 The remaining 13 projects involved current applications at the time the election commitment was announced. This included four applications that were submitted to DOTARS during the election campaign, but prior to the relevant project being announced as an election commitment. DOTARS had yet to complete its assessment of any of these projects against the published Programme Guidelines and assessment criteria. Nevertheless, for a number of the projects, the assessment work that had been undertaken had identified one or more shortcomings in these respects. Of these 13 election commitments, eight were allocated for administration within the Regional Partnerships Programme after the election, with the remaining five projects that had been the subject of a Regional Partnerships application being allocated to departments other than DOTARS to administer.

Election commitment projects for which a Regional Partnerships application had not been submitted

2:4.22 The department held no information on the remaining 26 projects prior to their announcements as election commitments. In terms of the allocation of these projects for administration within the Regional Partnerships Programme, the only information available to the department in the period following the election was media releases and election policy documents. Due to the broad nature of election commitment announcements, and the limited information contained in them in relation to the projects to which they relate, it was not possible from this material for DOTARS to determine whether projects proposed to be administered through the Regional Partnerships Programme fitted within the Programme Guidelines. However, the department did not communicate this position to Ministers in a timely manner after the election.[231]

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[231] Subsequently, in February 2005, the Minister for Finance and Administration was advised that DOTARS had experienced difficulties in obtaining necessary information on election commitment projects and that this was expected to result in delays in the approval of funding and the negotiation of Funding Agreements thereby leading to an expectation that funds would not be spent in 2004–05.

Project assessment process

2:4.23 On 11 October 2004, DOTARS' National Office advised all Regional Offices that:

> DOTARS has recommended to incoming Ministers that all Regional Partnerships projects identified as election commitments be assessed to ensure that issues and risks are appropriately addressed. To this end it is proposed that advice on each of these projects be prepared and a formal decision taken by the Minister to approve specific funding for these projects, subject to any conditions necessary to manage risks and ensure consistency with Programme guidelines.

2:4.24 However, election commitment projects administered through the Regional Partnerships Programme were not required to satisfy the Programme Guidelines. In this respect, DOTARS advised the Senate Committee that:

> If there is an election commitment and the government undertakes to make a grant, clearly it has the right to do that if it is elected. In this case it was. It will then choose the means by which it will execute its promise. In this case it is using the Regional Partnerships program. It is different, because it is an election commitment, not an application.[232]

2:4.25 This approach was also applied to projects for which a Regional Partnerships application had been submitted, but not yet decided, prior to the project being announced as an election commitment. In this respect, DOTARS advised the Senate Committee that:

> Some of those may have been the subject of an application under a program. Whether or not they were, those applications would now no longer be proceeding, because the government has already announced in the context of the election campaign its intention to fund those projects. We are now adopting a different process should the government give effect to those through Regional Partnerships, as it has to this Mount Isa one.[233]

2:4.26 In seeking Ministerial approval of funding for each election commitment administered through Regional Partnerships, DOTARS generally

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[232] Official Committee Hansard, Senate Finance and Public Administration References Committee, Reference: Regional Partnerships Program, 2 February 2005, F&PA85.

[233] ibid., F&PA86.

provided the Ministerial decision-maker with relatively brief information[234], consisting of:

- a short project summary;
- a (in most cases, brief) description of other considerations and/or risks associated with the project; and
- any conditions that the department recommended be placed on the approval of funding in order to manage identified risks.

2:4.27 It is a recognised and accepted practice that during election campaigns Ministers, and other government and non-government candidates, will announce party election policies and commitments. Nevertheless, the financial framework requires that any decision by a Minister or authorised official to approve the expenditure of public money on satisfying an election commitment must be undertaken in a manner that considers whether the proposed expenditure represents efficient and effective use of public money. In this respect, legal advice provided to ANAO was that:

> Announcement of a grant as an election commitment would not obviate the requirement that the approver be satisfied of the matters referred to in regulation 9. There is no difference in the requirements according to who makes the commitment or when it is given. However, the caretaker convention may impact on the timing of any approval to give effect to the commitment.

2:4.28 In the light of Ministers' statutory obligations when approving the expenditure of public money, it is important that departments advise Ministers on any measures considered necessary to manage risks to the Commonwealth achieving value for money when acting on election commitments. Among other things, this advice should fully inform Ministers as to the nature of the project and the extent to which it is likely to make efficient and effective use of the public money.

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[234] At the time of the audit, Regional Partnerships funding had been approved in relation to 34 of the 2004 election commitment projects allocated to the Programme. There were a further two projects that related to commitments made during the 2004 election campaign in respect of which no Regional Partnerships funding decision had been made as at 30 June 2006. They were the commitments set out in the Coalition election policy *Strengthening Tasmania's Economy and Building A Better Community* that a re-elected Coalition Government would provide $250 000 to the George Town Council to renovate and develop the George Town Memorial Hall and would contribute $50 000 to construct a building on the site owned by the Tamar Woodworkers Guild in the middle of Exeter to provide a workshop, retail outlet and some other basic facilities. Neither of those projects had been sufficiently defined by 30 June 2006 to be put forward for funding approval.

2:4.29 However, in relation to a number election commitment projects put forward for Ministerial approval of funding through Regional Partnerships, the department did not seek or obtain documentation from the funding recipient to substantiate aspects of the project such as:

- the proposed cost, scope and timeframe of the project; and/or
- the nature and sustainability of the outcomes expected to be achieved and the quantum of funding being provided by the Commonwealth compared to other relevant stakeholders.[235]

2:4.30 In other cases, the department did not provide advice to the Minister in relation to the value for money the project was likely to provide, including in

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[235] In some cases, there was considerable uncertainty as to the amount that had been announced as election commitment funding. For example, funding for a multi-purpose community centre for Wallan in Victoria was announced in a Media Release by the Member for McEwen during the 2004 election campaign. The undated Media Release did not identify any funding amount. Following the election, DOTARS initially identified this election commitment as being for $1 million. However, there was subsequent confusion as to the value of funds that had been the subject of the election commitment. On 24 January 2005, Mitchell Shire Council provided DOTARS with a copy of an early concept plan and indicative project costs of $2.78 million. Council also advised that the election commitment made had been for $2 million and advised that: 'The figure was $2m which was revised upwards from up to $1.5 by Fran Bailey and publicly announced at a meeting of stakeholders in Wallan, following a call from the Prime Minister's office on her mobile in the middle of the meeting. We do not as far as I'm aware have anything in writing confirming this...we have designed a building which we expect to cost approximately $2.5–$2.6m to build. Our contribution will make up the difference between the Federal grant and the actual cost.' On 25 January 2005, the North East Victoria ACC advised DOTARS that it had received similar advice from Council. On 7 February 2005, the Prime Minister's Office advised the then Minister's Office that: 'There was no figure in the release but we were always working on $1m. The ALP announced funding of up to $1m. I think that additional funding would need to be sort [*sic*] through applications to relevant programmes.' On the same day, the then Minister sought the Prime Minister's approval for new money to supplement Regional Partnerships funding in respect to 13 election commitments, including $1 million for the Wallan Multi Purpose Community Centre. On 8 February 2005, the then Minister's Office advised DOTARS that the Prime Minister's Office had confirmed with the Office of the Member for McEwan that the election commitment was for $1 million. However, on 21 February 2005, the Member spoke at a meeting of Council at which she outlined that the funding available for the project was $2 million. On 8 March 2005, the Prime Minister responded to the then Minister's letter, agreeing to Regional Partnerships receiving additional funding of $2 million for the Wallan Multi Purpose Community Centre project. The reason for this change from the earlier advice from the Prime Minister's Office confirming the election commitment as $1 million was not identified in DOTARS' records. DOTARS' election commitment assessment in relation to this project, submitted to the then Parliamentary Secretary on 9 May 2005, reflected the fact that the project was not yet fully developed, advising: 'The Council will be meeting any additional costs associated with the project from the $2m point onwards. They are estimating the contribution to be approximately $500 000 but will contribute more if required. As the architectural designs will be the first activity of this project, all necessary building approvals will be made a condition of the second payment with the first payment and activity milestone covering the final design stage of the new centre.' DOTARS did not provide any advice in relation to whether Council had established the need for a Centre that involved a $2 million Commonwealth contribution (compared to the originally proposed $1 million). Nor did the department address the question of efficient use of the Commonwealth funds, including that Council's proposal appeared to involve the Regional Partnerships funding being spent first.

regard to such benchmarks published in respect to the Regional Partnerships Programme.[236]

2:4.31 There were two instances in which, notwithstanding DOTARS recommending that the Ministers approve the full amount of funding announced in the relevant election commitment, a more cautious approach was taken by the Ministerial Committee to the approval of funding to support an election commitment.

2:4.32 The first occasion on which full funding of an election commitment, as submitted by the department, was not approved in the first instance was in relation to the Central Queensland Science and Technology Precinct. DOTARS' October 2005 recommendation to the Ministerial Committee was that it approve the full election commitment funding of $8 million (plus GST), with the department to then manage risks associated with the lack of detailed project planning through its administration of the Funding Agreement. However, in this instance, the Ministerial Committee decided that it was not in a position to approve the bulk of the election commitment funding. Instead, at its 30 November 2005 meeting, the Committee approved partial funding of up to $200 000 (plus GST) for the preparation of a business plan, with the project to be referred back for further consideration once the plan was complete.

2:4.33 The Ministerial Committee took a similar approach to the approval of funding in relation to the election commitment of $4 million for the Eidsvold Sustainable Agri-forestry Complex Incorporating the Regional Murray Williams Australian Bush Centre. On the basis of its truncated election commitment risk assessment process, on 7 September 2005 DOTARS recommended to the then Minister for Transport and Regional Services that he approve the full election commitment funding, subject to certain conditions for the payment of second and subsequent payments being included in the Funding Agreement.

2:4.34 At its first meeting on 30 November 2005, the Ministerial Committee deferred consideration of the project on the basis that further investigation was required. Following further inquiries by DOTARS, including discussions with the Wide Bay Burnett ACC, Eidsvold Shire Council and the Federal Member

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[236] For example, DOTARS' benchmarks for assessing the value for money of proposed project outcomes under the Regional Partnerships Programme include: where job creation is a focus, each ongoing full-time or equivalent job has been supported by less than $25 000 in grant funds; and where community infrastructure is a focus, the grant funds have been less than $1 000 for each likely user of the facilities. Source: DOTARS, Regional Partnerships Guidelines, July 2006, p. 11.

for Hinkler, the department submitted a revised assessment to the Ministerial Committee on 23 February 2006. By way of comparison to its earlier recommendation, DOTARS now advised:

> The department considers that this proposal requires further detailed planning in order to fully develop a viable project. We estimate that this planning would cost up to $200 000. It would be appropriate for Council to contribute a one third cash share to these planning studies (i.e. up to $67 000).

2:4.35 On 21 March 2006, the Ministerial Committee approved funding of $67 000 (plus GST) and agreed to the department's recommendation that the release of the remainder of the funds be subject to the provision of a business plan that demonstrated the long term sustainability of the Centre.[237]

Recommendation No.5

2:4.36 ANAO *recommends* that, in the light of Ministers' statutory obligations when approving the expenditure of public money, the Department of Transport and Regional Services advise Ministers of any measures considered necessary in managing the risks to the Commonwealth achieving value for money when acting on election commitments.

DOTARS response

2:4.37 Agreed.

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[237] In May 2007, DOTARS advised the Senate Standing Committee on Rural and Regional Affairs and Transport that the amount to be provided for the preparation of the business plan was subsequently revised downward to $40 403, with a Funding Agreement being executed on 11 April 2007 (Official Committee Hansard, Senate Standing Committee on Rural and Regional Affairs and Transport, Estimates (Budget Estimates), 22 May 2007, RRA&T77).

2:5 Waiving Eligibility and Assessment Criteria

This chapter examines the circumstances in which eligibility or assessment criteria set out in the published Regional Partnerships Programme Guidelines have been waived or not applied in respect to individual projects.

Introduction

2:5.1 The Regional Partnerships Programme is a very flexible executive discretionary grants programme, under which projects have been subject to individual, continuous assessment rather than being considered through structured funding rounds. In these circumstances, it is important that the assessment criteria be straightforward, easily understood and appropriately differentiate between projects in order to ensure funding is directed at projects that will provide positive outcomes in a sustainable and cost-efficient manner, and that those criteria are consistently applied.

2:5.2 However, ANAO's examination of application assessments submitted for Ministerial consideration over the first three years of the Programme, ending 30 June 2006, identified the need for improvements in the consistency, completeness and accuracy of the advice provided to the Ministers on which to base their decision.

2:5.3 In this respect, as noted, one of the Programme changes announced by the then Minister for Transport and Regional Services in November 2005 had been the introduction of a single assessment process undertaken in National Office, which commenced from 13 March 2006. This was a response to the need for greater consistency in application assessment, as was acknowledged in a February 2006 departmental briefing as follows:

> The single assessment process in National Office was one of the initiatives designed to streamline the delivery of the program. It is intended that the new process will allow problems to be identified locally and dealt with quickly, allowing final decisions made sooner. It is also intended that this process will result in more consistent interpretation of the assessment guidelines and provide consistent and sufficient information to enable the Ministerial Committee to make informed decisions on applications. In addition DOTARS will issue guidelines setting out the roles and responsibilities of regional office staff in relation to the development of *Regional Partnerships* projects, including clarification of the key criteria for project approval.

2:5.4 The project selection processes applied in discretionary grants programmes should encourage applicants to put forward their best possible applications, and select the best applications that will achieve the programme objectives, within a value for money context.[238] In achieving this, the ANAO Administration of Grants Better Practice Guide advises:

> …the objective of the appraisal process is to select those projects that best represent value for money in the context of the objectives and outcomes of the grant program. In order to achieve this it is essential that all applications are consistently considered against the criteria established during the planning stage. Applications should only be assessed against the relevant pre-specified criteria, in accordance with the requirements of procedural fairness.[239]

2:5.5 Where published assessment criteria are set out for a grants programme, it is reasonable for potential applicants to expect that only applications that satisfy those criteria will be considered for funding, with the discretion of the decision-maker being exercised in terms of judgements relating to the relative merits of compliant proposals.

2:5.6 However, a feature of the Regional Partnerships Programme has been the extent to which departmental assessments and/or Ministerial funding decisions have, for certain applications, waived, or failed to apply, stated eligibility or assessment criteria.

Eligibility criteria not consistently applied

2:5.7 Over the course of the first three years of the Regional Partnerships Programme, funding was approved in respect of projects that did not demonstrably satisfy the assessment or eligibility criteria set out in the published Programme Guidelines. This occurred in a variety of circumstances.

2:5.8 One such circumstance related to funding approved for projects to which the applicant had already committed prior to the Regional Partnerships application being approved. Projects seeking funding for retrospective costs are not eligible under the Guidelines. In this respect, one of the changes made to the original Programme Guidelines was the inclusion from July 2005 of a definition of retrospective costs as being any expenditure, or commitment to expenditure, incurred prior to the Funding Agreement being signed by both

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[238] ANAO Audit Report No.52 2005–06, *Management of selected Telstra Social Bonus 2 and Telecommunications Service Inquiry Response Programs*, Canberra, 29 June 2006, p. 39.

[239] ANAO Better Practice Guide—Administration of Grants, op. cit., paragraph 3.25, p. 45.

parties. In this respect, ANAO identified a number of instances in which delineations were made between aspects of an integrated project in order to enable retrospectivity issues to be avoided.

2:5.9 Similarly, projects that were being substantively undertaken by an ineligible organisation (such as State Government) have been approved for Regional Partnerships funding on the premise that the application was submitted by an eligible organisation (such as a Local Government Authority). However, in many cases, this approach did not reflect the realities of the project management arrangements, with the Council 'applicant' acting as little more than a conduit for the Regional Partnerships funds to flow to the State Government entity actually undertaking the project.

2:5.10 For example, this issue was identified in relation to ANAO's examination of RP00289 Australia's National Mineral Water and Bathhouse Facility wherein $500 000 (plus GST) in Regional Partnerships funding was approved for payment to Hepburn Shire Council to construct an enhanced entranceway to a refurbished facility. The entranceway is a component of a wider project that centres on refurbishment and ecologically compliant use of mineral water in the historic bathhouse complex. Key issues in terms of the eligibility of the project were that:

- located on a Crown Reserve, the Hepburn Bathhouse facility land and buildings are the property of the Victorian State Government. At the conclusion of the redevelopment, the Bathhouse is expected to be a significantly higher value asset. Previously, in 1991, the State Government had carried out major redevelopment works on the Bathhouse. DOTARS did not address the State Government ownership of the Bathhouse complex in its project assessment; and
- the Regional Partnerships application for funding proposed that Hepburn Shire Council would manage the project. Accordingly, DOTARS provided advice to the then Parliamentary Secretary as to whether Council satisfied the applicant viability criterion. The department did not draw to the then Parliamentary Secretary's attention that Council was the appointed Committee of Management for a State Government owned asset and that it was open to the State Government to cease or change the project, its timeframe and manner of delivery.

2:5.11 Due to project delays and Council concerns about its ability to manage the project, changes have been made to the project delivery arrangements.

Specifically, a division of a Victorian State Government department is now managing the delivery of the project (as illustrated by the photograph of the project management and partnerships billboard taken at the site during an ANAO site visit in December 2006—see Figure 2:5.1). Council's role has been reduced to participating on a project reference group and contributing funding towards project costs. However, in its administration of the Regional Partnerships Funding Agreement, DOTARS did not address the implications of the Regional Partnerships Funding Agreement having been entered into with a party that is not ultimately responsible for the project for which funding had been approved. In these circumstances, Council is not in a position to deliver on its obligations under the Funding Agreement to refurbish the Bathhouse, obtain all partnership contributions and keep full and accurate records of the conduct of the redevelopment.

Figure 2:5.1

Project management and partnership billboard at site of RP00289 Australia's National Mineral Water and Bathhouse Facility project

Source: Photograph taken during ANAO site visit in December 2006.

2:5.12 Another instance examined by ANAO related to RP00891 Rockingham Beach Village—Development of a Village Green. As outlined in Chapter 3 in

Part 3 of the audit report relating to Assessing the Quantum of Partner Funding, issues in this regard were a feature of a number of projects submitted by, and approved for, the City of Rockingham in Western Australia.

2:5.13 Another circumstance where projects that did not satisfy eligibility criteria have been approved involved projects that did not satisfy the criterion specified in the Guidelines that Regional Partnerships would not fund a project that competed directly with existing businesses, unless it could be demonstrated that there was an unsatisfied demand for the product or service, or the product or service was to be provided in a new way. This issue was examined, for example, in ANAO's case study of RP00908 Lakes Creek Upgrade. The response provided in October 2004 by the Office of the then Minister for Transport and Regional Services to a complaint from a competing plant in the same location as that project illustrated that the discretionary nature of the Programme was interpreted as enabling the Ministerial decision-maker to waive eligibility criteria set out in the published Guidelines, as follows:

> I note your concern that this funding appears to be in contravention to *Regional Partnerships* guidelines. However, I can confirm that this is not the case, as you will note from the attached copy of the *Regional Partnerships* guidelines that it is a discretionary programme.

2:5.14 In that case, although recording some reasons for the funding being approved, the basis for the then Parliamentary Secretary's conclusions regarding the competitive advantage eligibility criterion was not fully documented. As discussed in Chapter 2 in this part of the audit report, there were also instances where eligibility or assessment criteria were waived by a Minister through the approval of a project that was identified by the department as not satisfying a criterion.

2:5.15 By way of comparison, procedures to govern the waiving of criteria were articulated in respect to two areas. These related to:

- the requirement for an applicant to have obtained all necessary statutory approvals and licences in respect to their project;
- the SONA procedures.

Requirement for statutory approvals

2:5.16 A particular example of an eligibility criterion not being applied in the manner specified in the approved Guidelines related to the approval of funding for projects that had not yet obtained all necessary statutory approvals and licences. In this respect, the Programme Guidelines approved by the responsible Ministers in May 2003 stipulated that projects not eligible for funding included:

> projects that can not obtain or that are in the process of obtaining the relevant approvals or licences to progress;

2:5.17 Accordingly, applicants that had not yet applied for approvals or licences necessary in order for their project to proceed, or were still in the process of obtaining such approvals or licences, were not eligible to be considered for Regional Partnerships funding. Despite this, ANAO noted two applications that were approved for funding during the ten month period these Guidelines applied, despite not yet having all necessary planning approvals. Instead, both were recommended for approval subject to obtaining the necessary approvals. Neither the Guidelines nor the Internal Procedures Manual applying at the time of these assessments made provision for a conditional approval of that nature.[240]

2:5.18 The first, RP00198 Oodnadatta Tourism & Community Infrastructure Project, was approved for Regional Partnerships funding of $72 500 (plus GST) on 5 December 2003, subject to Planning SA approval being obtained. DOTARS' assessment had recommended the conditional approval, but did not identify the basis on which the application was eligible under the Guidelines.

2:5.19 The second case related to RP00061 Cobar Primary Health Care Centre, which was approved for Regional Partnerships funding of $303 268 (plus GST) on 19 February 2004. The application was originally submitted under the Regional Solutions Programme. The July 2003 version of the Regional Partnerships Internal Procedures Manual provided as follows:

> There are approximately 100 applications that are yet to be assessed. The Department will undertake an initial assessment of these applications under the new programme as funds available under RSP will be exhausted. Those assessed as likely to be eligible under the new guidelines will be advised that their application will be considered under the new programme and they may be required to provide additional information in due course. In accordance with the Regional Partnerships guidelines, these will be referred to ACCs for advice. Those that appear not to meet the new guidelines (based on the

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[240] In this context, other applicants that had not yet obtained necessary statutory approvals were ruled ineligible by the department at the pre-assessment stage (see, for example, the discussion at paragraphs 2:5.21 to 2:5.22 and footnote 242).

> information provided) will be advised to develop the application further with the assistance of ACCs.[241]

2:5.20 RP00061 was ineligible under the applicable Regional Partnerships Guidelines because development approval had not been obtained. However, in recommending funding approval in February 2004, DOTARS did not bring this to the then Parliamentary Secretary's attention. Instead, the department recommended that funding be approved subject to the applicant subsequently obtaining the necessary approvals on the basis that:

> As the applicant and consent authority, Council has deferred formal development approval pending the outcome of this application.

2:5.21 On 2 February 2004, the Chair of the Central Coast ACC wrote to the then Parliamentary Secretary expressing the view that making the Programme Guidelines more flexible would enable ACCs to provide and endorse several worthwhile projects. The areas in which the ACC Chair considered the Guidelines to be too tight included the area of statutory approvals, with the Chair suggesting that the Guidelines be amended to allow applications to be approved dependent upon subsequent attainment of development approvals within time restraints. The example noted by the Chair related to a recent unsuccessful application from a 'cash strapped volunteer organisation that did not obtain a [*development approval]* for the new building facility'.[242]

2:5.22 On 10 March 2004, the then Parliamentary Secretary responded to the Central Coast ACC Chair, advising:

> I am sympathetic to the difficulties faced by volunteer organisations that may be reluctant to spend scarce resources in obtaining development approval from local councils while they are uncertain about obtaining sufficient funds to implement a project. I am pleased to inform you that I have asked my Department to review the *Regional Partnerships* guideline that specifically excludes projects that do not have the relevant planning and development

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[241] Department of Transport and Regional Services, Regional Partnerships Internal Procedures Manual, July 2003, p. 116.

[242] Also in February 2004, the Member for Robertson (located on the New South Wales central coast), the Hon Jim Lloyd MP, wrote to the then Parliamentary Secretary expressing concern that projects he thought had merit were not being successful in achieving Regional Partnerships funding. The Member met with the then Parliamentary Secretary on 10 February 2004, with the departmental note of that meeting recording that Mr Lloyd was particularly concerned about the Hawkesbury Base Improved Mooney Mooney project submitted by the Royal Volunteer Coastal patrol and the fact it had been deemed ineligible by the Regional Office because the applicant didn't have an approved development application. The department recorded that the then Parliamentary Secretary had expressed sympathy with this issue, and had asked the department for advice as to whether, in this case, a conditional recommendation could be considered.

> approvals with a view to considering the difficulties this imposes on not-for-profit organisations, including charities and volunteer groups.

2:5.23 Revised Guidelines were promulgated on 31 May 2004. On the issue of approvals, the Revised Guidelines stated that:

> Project proposals that can not obtain or have not yet obtained the relevant approvals or licences to progress will not generally be considered. [*ANAO emphasis of the substantive change made to the criterion*]

2:5.24 This change to the Guidelines was approved by the acting Minister for Transport and Regional Services on 15 April 2004. In recommending the revision to the Guidelines, DOTARS had advised the acting Minister that:

> The current wording is aimed at ensuring that proponents bear a fair share of the risk associated with projects. Any change to the guidelines needs to preserve this basic approach and not result in a significant shift in risk from the proponent to the Government.
>
> We consider that it is possible to amend the guidelines to introduce some additional flexibility while continuing to signal strongly that projects without the necessary approvals/licenses will not be eligible for funding.
>
> …The main change is the inclusion of the word “generally” which allows for the possibility of exceptions. We envisage that exceptions will only be made in a limited range of circumstances, predominantly where:
>
> - the applicant is a community-based organisation;
> - the cost of applying for an approval/license is a high proportion of the project cost.

2:5.25 DOTARS further advised the acting Minister that:

> The proposed change would result in a small degree of additional risk to the Government in that such projects may ultimately fail to gain the necessary approvals/licenses. We propose to manage this risk as follows:
>
> - by including a provision in the funding agreement to ensure that the first payment cannot be made until the necessary approvals/licenses have been obtained, and possibly a timeframe for obtaining the approval as well; and
> - by including advice about the change in the RP programme manual used by Departmental assessors and providing examples of the limited sorts of circumstances in which exceptions would be made.

2:5.26 The benefit of this approach was that the controls to be adopted provided a balance to allow certain projects to be progressed whilst protecting the Commonwealth in that funding would not be provided until sufficient assurance had been provided that the project was likely to proceed.

Increasing occurrence of approval of funding conditional on subsequently obtaining necessary approvals and licences

2:5.27 The September 2004 version of the Internal Procedures Manual was amended to include advice to departmental assessors about the limited circumstances in which exceptions would be made to the requirement that projects have obtained all necessary approvals and licences. The revised Internal Procedures Manual advised that ineligible projects included:

> *Project proposals that can not obtain or have not yet obtained the relevant approvals or licenses to progress. Relevant approvals and licenses being those necessary to allow the project to proceed.
>
> (However there are a very small number of cases where there is an exception to this rule. See bottom of this table for details.)…
>
> *An exception may be granted where:
>
> - the applicant is a community-based organisation; or
>
> - the cost of applying for an approval/licence is a high proportion of the project cost.
>
> The assessor's recommendation would also need to be conditional on approvals being obtained.
>
> To cover off the risk associated with these exceptions a provision must be included in the Funding Agreement to ensure that the first payment cannot be made until the necessary approvals/licences have been obtained, and possibly a timeframe for obtaining the approval as well. [*Emphasis as per original*]

2:5.28 Following the acting Minister's 15 April 2004 approval of the revision to the Guidelines, it became increasingly common for projects to be recommended and approved for funding conditional upon subsequently obtaining necessary approvals. In this respect, of the 891 projects approved for funding between the revision of the Guidelines and 30 June 2006, 100 or 11.2 per cent were approved subject to obtaining necessary approvals.

2:5.29 This was a more extensive use of this relaxation of the eligibility criterion than was advised to the acting Minister and reflected in the Internal Procedures Manual. In particular, a number of applications approved in this manner did not satisfy either of the exception criteria advised to the acting Minister. For example, applicants approved for funding subject to subsequently obtaining necessary approvals expanded from the community-based organisations originally envisaged. Of the 100 projects approved between April 2004 and June 2006 subject to obtaining necessary approvals and licences, 48 involved a Local Government Authority or Indigenous Council applicant and six involved a for-profit applicant.

2:5.30 There was also considerable non-compliance with the risk management provisions agreed to by the acting Minister for the approval of funding conditional on obtaining necessary approvals. Further, a number of projects were recommended and/or approved for funding on an unconditional basis despite not having necessary approvals in place. In particular, ANAO identified a number of instances within the sample of ACCs examined in which the Funding Agreements executed for approved projects, and DOTARS' administration of the Agreements, did not ensure that no Regional Partnerships funds were paid prior to the applicant obtaining all necessary approvals. For example, issues in this respect are outlined in the ANAO case studies of:

- RP01364 Country Homes and Cabins;
- RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith;
- RP00622 Jarrahdale Heritage Park; and
- RP00769 Redevelopment of Geraldton Surf Life Saving Club.

2:5.31 Similar issues were also identified in ANAO's examination of, RP01016 Design and Construction of an Interpretive Centre for the Carnarvon One Mile Jetty[243] and RP02237 Tambo Multipurpose Centre.

2:5.32 Of 194 approved applications in the sample of 11 ACCs examined by ANAO, 20 (10 per cent) were approved subject to obtaining all necessary approvals and licences. Contrary to the risk mitigation measure advised to the acting Minister and set out in the Internal Procedures Manual, DOTARS made payments in respect of ten (50 per cent) of those projects without first obtaining evidence of the funding condition having been satisfied.

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[243] The Funding Agreement for this project was not signed until August 2006, some 22 months after funding was approved, with $100 000 in Regional Partnerships funds being paid on 9 August 2006, one day after the Funding Agreement was signed and more than six months before it was expected that plans and building approvals would be completed. Information provided to ANAO by DOTARS in October 2007 stated that the department had been advised by the funding recipient that construction was at least two years away. DOTARS advised the funding recipient that the department was obligated to inform the Minister of the situation and prepare a brief to the Ministerial Committee recommending that Regional Partnerships funding be withdrawn.

2:5.33 Within the sample of approved projects, ANAO identified a further 29 (15 per cent) which did not have all necessary approvals in place at the time of assessment, but for which the funding approval was not made conditional upon obtaining those approvals. DOTARS made payments in respect of 22 (76 per cent) of those projects prior to obtaining evidence of the funding recipient having obtained all necessary approvals.

Senate Committee recommendation

2:5.34 In the report of its inquiry, the Senate Committee expressed concerns about the provision of funding approvals conditional on the applicant subsequently obtaining necessary approvals, but with the announcement of the funding not including reference to its conditional nature. In this respect, the Senate Committee reported:

> As described in the Tumbi Creek case study, while the revised guideline allowed the Tumbi Creek grants to be *approved* without relevant licences, a funding agreement could not be entered into before the licences were obtained. Effectively, the project remained ineligible for funding until the relevant approvals and licences were obtained, but the grant announcement could be made. This circumstance raised serious concerns about the intent of the revised guideline. As described in the Tumbi Creek case study, that project had particular political profile. Funding was announced by the Prime Minister in a marginal electorate just days before the 2004 federal election was announced. Yet the project was at the time ineligible to actually obtain the announced funding. As at mid-August 2005 a funding agreement for the project still had not been entered into.[244]

2:5.35 In this respect, in November 2004, the Regional Office confirmed to National Office that a firm project plan and budget for the Tumbi Creek Dredging project would not be known until June 2005 at the earliest, due to the processes involved in obtaining a dredging licence from the NSW Department of Lands. Until the licence was issued, and any associated conditions known, the project methodology (and therefore costs and timelines) could not be ascertained with any degree of certainty. A Funding Agreement for the project was ultimately executed in May 2006. This example highlights the basis for the original eligibility criterion under which applicants needed to have obtained all necessary approvals and licences before being considered for Regional Partnerships funding.

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[244] Senate Committee Report, op. cit., p. 206.

2:5.36 The Senate Committee recommended that projects that cannot or have not yet obtained relevant approvals or licenses not be eligible for Regional Partnerships funding.[245] The November 2006 Government Response to the Senate Committee's recommendation was:

> Agree in part.
>
> This is already generally the case. However, there are some instances where it is not appropriate to insist on development approvals ahead of assessment. For instance, a community group that has raised funds through raffles and similar activities should not necessarily be forced to use those funds seeking approvals while there is high uncertainty about a project proceeding because they have not secured programme funding. In such cases approvals are made subject to securing relevant consents.

2:5.37 This response did not reflect:

- the nature of applicants that had been approved for Regional Partnerships funding without being required to first obtain the approvals and licenses necessary for the project to proceed; or
- the changed position regarding this issue set out in the revised Programme Guidelines that had been issued in July 2006, under which there was no longer any stipulation that projects that had not yet obtained relevant approvals or licenses would not generally be considered for funding. Instead, the Guidelines now advised applicants that:

> If a project is approved without all statutory approvals, it will be necessary to obtain the approvals before a first payment can be made.[246]

2:5.38 Similar advice was included in updated Guidelines issued in July 2007. In August 2007, DOTARS advised ANAO that:

> The *Regional Partnerships* Programme Guidelines, 16 July 2007, do not stipulate a requirement that statutory approvals are required for project eligibility. This revision recognises that gaining the required approvals can take considerable time and that certain projects can not adequately progress should they be required to suspend progress until statutory approvals are received. However, as a risk mitigation measure, the 16 July 2007 Programme Guidelines (Does the Project Require Statutory Approvals p7) state:

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[245] ibid., Recommendation 17.

[246] DOTARS Regional Partnerships Guidelines, July 2006, p. 7.

> Applicants should check the approval requirements with their local council and other authorities and make sure their application includes details of:
>
> - all approvals required;
> - the approvals already obtained; and
> - evidence of their ability to obtain all the necessary approvals within a reasonable time – usually three months (for example, a letter from the relevant authority).
>
> If a project is approved without all required statutory approvals, it will be necessary to obtain the approvals before a first payment can be made.

2:5.39 Having regard to ANAO's observations of non-compliance with the risk mitigation measures relating to statutory approvals included in previous versions of the Internal Procedures Manual, in order to achieve improvements in this area it will important that the department ensure there is appropriate oversight of compliance with the similar risk mitigation measures now set out in the Programme Guidelines.

Strategic Opportunities Notional Allocation (SONA)

2:5.40 Amongst its recommendations for the new package of regional grants programmes, the 2002 Taskforce recommended the establishment of a Strategic Opportunities Fund (SOF), modelled on the Projects of National Significance component of the Regional Assistance Programme (one of the programmes to be incorporated into the new package).[247] This essentially related to the notional allocation of a proportion of the funds available to the new package to a 'strategic fund', with unused funds being progressively returned to the main funding allocations over the course of the financial year.

2:5.41 The purpose of the strategic fund was to allow the government to respond quickly and easily to a diverse range of situations, without the need to establish new administrative arrangements, such as a new programme. In proposing the fund, the Taskforce advised:

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[247] There were no specific guidelines or assessment criteria for Projects of National Significance although the guiding principles of the Regional Assistance Programme applied. Under that model, projects were approved on a case-by-case basis, by the Minister or Cabinet, in response to situations such as local economic crisis, natural disasters or projects which were considered to be of regional significance.

> To maximise the flexibility of SOF, the approach would be to ensure projects are consistent with the goals and priorities of *Stronger Regions, A Stronger Australia* (SRSA) or with the regional programme package, rather than to develop limited parameters around the types of projects that could be approved…To maintain confidence in the approval process and programme outcomes, aid transparency, and demonstrate commitment to public accountability, the Minister's reasons for the decision, linked back to the SRSA goals or priorities or the regional programmes package, must be recorded. All projects approved under SOF should be placed on the public record…

2:5.42 The Taskforce recommended to the then Minister for Transport and Regional Services that the SOF be part of the regional programmes package, with guidelines and accountability approaches to be developed and agreed by the Minister. The Minister agreed to the recommendation on 29 July 2002. In June 2003, DOTARS sought approval of the retention of a small proportion of programme funds for the SOF.[248] DOTARS advised the then Minister that:

> You will recall that this element will allow flexible responses to high priority projects that are of broad significance at regional, state or national level.

2:5.43 The then Minister approved that approach on 16 July 2003. The fund was subsequently renamed the Strategic Opportunities Notional Allocation (SONA). In September 2003, DOTARS sought its Ministers' agreement to broad parameters for the operation of the SONA and to the department proceeding with developing the required administrative procedures, as set out in a discussion paper provided to the Ministers. DOTARS advised the Ministers that:

> It is proposed that SONA be modelled on the principle of the Projects of National Significance but operate under a specific and transparent set of processes and guidelines. To maintain the integrity of SONA but maximise its flexibility, it is proposed that all projects must be consistent with the goals and priorities of either *Regional Partnerships* or the *Stronger Regions, A Stronger Australia* statement. This is considered preferable to developing highly specific parameters around the types of projects that could be approved.

2:5.44 The broad parameters for SONA, approved by the then Minister for Transport and Regional Services on 15 September 2003, and by the then Minister for Regional Services, Territories and Local Government on 27 September 2003, are set out in Figure 2:5.2.

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[248] It was proposed that initially $3 million be kept aside for projects that could be considered under the fund.

Figure 2:5.2

Broad parameters approved by Ministers for the operation of the SONA

- SONA will not be advertised as a source of mainstream funding and specific applications for this funding will not normally be called for.
- Projects must be consistent with the goals and priorities of either RP or the *Stronger Regions, A Stronger Australia* statement and must meet the majority of RP selection criteria.
- Proposals recommended for approval under SONA will usually have been assessed and have been identified as high priorities through the normal processes, including consultation with the relevant ACC, or else with the ACC Chairs Reference Group where projects are of a national or cross-regional character.
- Proposals will be considered if they meet a broad national need, such as
    - they are of national or cross-regional significance;
    - they are a whole-of-government response; or
    - they respond to a significant event, such as a regional economic or social crisis, where support is not available from existing relief programmes.
- In addition SONA may be used to address programme constraints of a more administrative nature, such as:
    - where a high priority project, if approved, would significantly exceed the relevant ACC's notional allocation, and cannot be delayed until sufficient Regional Partnerships funding becomes available;
    - to increase funding flexibility in cases where a decision taken to "not support" a project is reversed following formal review; or
    - where a project or initiative would require the waiver of some specific part of the guidelines or eligibility criteria (such as the funding of normally ineligible proponents that has enabled the participation in Rural Transaction Centres (RTCs) of Australia Post and Centrelink as well as DEWR for its RTC touch screen kiosk pilot).
- All projects approved will be placed on the public record.

Source: DOTARS records.

2:5.45 Administrative procedures relating to the funding of applications through the SONA were subsequently developed by DOTARS.[249]

Application of the SONA procedures

2:5.46 Between November 2003 and August 2004, eight projects were considered for funding under SONA. Seven were approved for funding totalling $9.244 million, with two grants being approved for the Slim Dusty Centre project.

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[249] As the parameters for the SONA were not approved until September 2003, the original July 2003 versions of DOTARS' Regional Partnerships Internal Procedures Manual, and the ACC Internal Procedures Manual made no reference to the SONA. The SONA procedures were first incorporated into the Internal Procedures Manuals in June 2004.

2:5.47 DOTARS advised the Senate Committee that a ninth project (RP00696 Chain of Intermodal Shared Services on the Eastern Seaboard) had also been considered under SONA, but not approved. The date of non-approval advised to the Committee was 18 August 2004. However, that application was not considered under SONA. DOTARS' assessment of the project against the Programme Guidelines, provided to the then Parliamentary Secretary on 12 August 2004, recommended that funding not be approved as it was ineligible, but also advised that the project was possibly eligible for funding under SONA in that:

> The project could be seen as of national significance and would require the waiver of some specific part of the guidelines or eligibility criteria in order to be funded.

2:5.48 DOTARS advised the Parliamentary Secretary that available options were:

> (1) Given the possible national significance of this project the proponent could be invited to submit a revised application which clearly showed the wider community benefit, clear outcomes and improved partnership support; or 2) Reject outright funding for this proposal because it was ineligible under the Guidelines.

2:5.49 DOTARS advised that option 1 would seem the most appropriate:

> as it acknowledges the work put in already by the proponent and offers the opportunity to demonstrate that the project could possibly be funded under SONA.

2:5.50 DOTARS recommended that the then Parliamentary Secretary not approve funding and advise the applicant of the decision, suggesting that it may wish to develop a revised application for consideration under SONA. Instead, on 18 August 2004, the Parliamentary Secretary advised that the project was 'on hold', and requested that the department engage the applicant in discussions leading to a revised application that better aligned with the Guidelines. There was no further Ministerial decision on this application. From December 2004, DOTARS regarded it as having been rejected.

2:5.51 Table 2:5.1 sets out the projects considered for funding through application of the SONA procedures.

Table 2:5.1

Projects considered under the SONA procedures – November 2003 to August 2004

Project	Approved Funding ($)	Nature of application	Date submitted into TRAX	Date of decision
CrocFest	144 000	Letter from Prime Minister regarding funding of commitment made during the 2001 election.	20 Nov 03	24 Nov 03
Slim Dusty Heritage Centre	500 000	Regional Partnerships application following Government decision for DOTARS and DCITA to support the project ‘subject to normal requirements’.	7 Jan 04	25 Jan 04
Christmas Island Mobile Upgrade	2 500 000	Proposal from Telstra Corporation Limited to Minister for Local Government, Territories and Roads.	6 April 04	6 Apr 04
Wholesale Regional Banking Model Development	Nil	Regional Partnerships application submitted through normal channels.	11 Dec 03	21 Apr 04
Sugar Industry Reform Package	12 734 000	Proposal from the department to the Minister for Transport and Regional Services as to how to satisfy a government decision in relation to funding of the Sustainability Grant element of the Sugar Industry Reform Package.	26 May 04	27 May 04
Slim Dusty Heritage Centre	500 000	Request for additional Regional Partnerships funding after the project proponent provided a proposal to the Minister for Transport and Regional Services on 11 May 2004 regarding the project’s Capital Fundraising Campaign.	20 Jun 04 (submitted to Parliamentary Secretary for decision 17 Jun 04)	21 Jun 04
National Centre in Science, Information Communication Technology and Mathematics for Rural and Regional Education	4 500 000	A general proposal seeking funding of $12.3 million for the project was presented to DOTARS in late May 2004, after discussions between the applicant and the then Minister for Transport and Regional Services, and the Minister and the then Minister for Education, Science and Training.	21 June 04	24 Jun 04

Project	Approved Funding ($)	Nature of application	Date submitted into TRAX	Date of decision
Gunnedah Grains to Ethanol	1 100 000	Application to Namoi Valley Structural Adjustment Package. That programme was subsumed into Regional Partnerships.	9 July 04	5 July 04
Regional Australia On Board—Pilot Programme	Nil	Regional Partnerships application submitted through normal channels. Assessed as satisfying the Guidelines, but recommended for consideration under SONA on the basis it aimed to address an identified need of national significance. This appears to have been prompted primarily as a funding consideration (i.e. drawing on SONA rather than the relevant ACCs' notional allocations), as the department had not identified any aspect of the application that would not otherwise be eligible.	21 July 04	12 Aug 04

Source: ANAO analysis of DOTARS records.

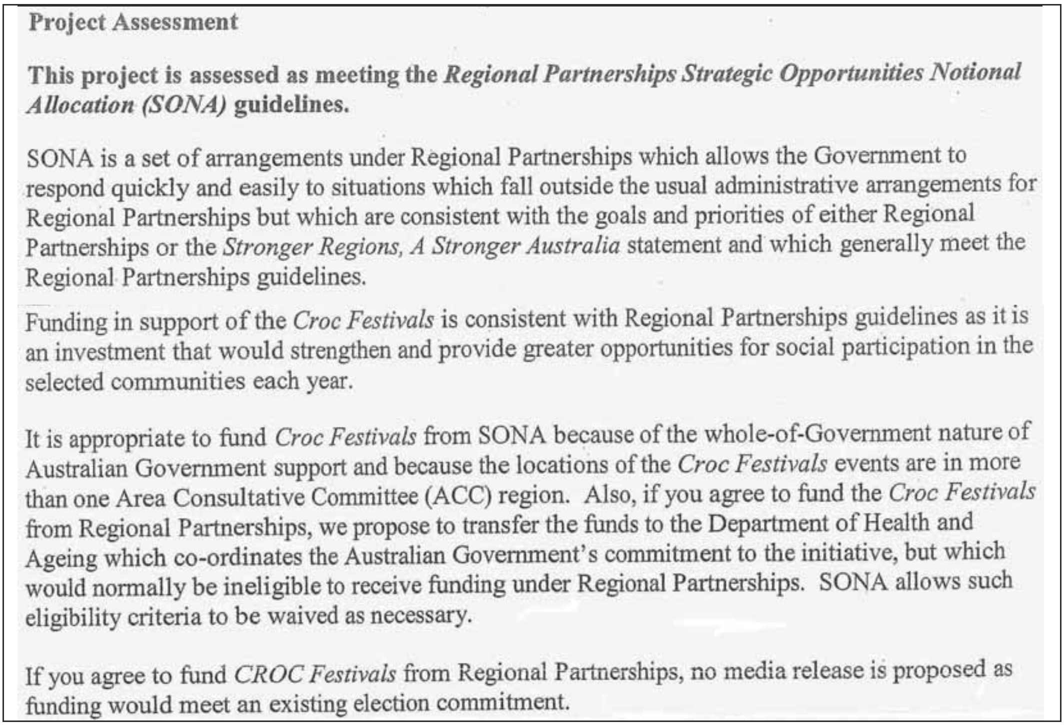
Establishing the appropriateness of applying the SONA procedures

2:5.52 The broad nature of the criteria in respect to what types of projects could be considered for funding through application of the SONA procedures means that it is difficult to clearly demonstrate whether particular applications should have been appropriately considered for funding using the procedures. In other cases, the extent to which projects satisfied the requirements set out in the procedures was not evident.

2:5.53 For example, the SONA procedures stipulated that projects must meet the majority of Regional Partnerships selection criteria. However, in recommending to the then Parliamentary Secretary that she agree that DOTARS' contribution to the *Croc* Festivals for 2003–04 and 2004–05 be funded though Regional Partnerships under SONA, DOTARS provided no assessment against the Regional Partnerships assessment criteria, as shown in Figure 2:5.3.

Figure 2:5.3

Departmental assessment of CrocFest project



Project Assessment

This project is assessed as meeting the *Regional Partnerships Strategic Opportunities Notional Allocation (SONA)* guidelines.

SONA is a set of arrangements under Regional Partnerships which allows the Government to respond quickly and easily to situations which fall outside the usual administrative arrangements for Regional Partnerships but which are consistent with the goals and priorities of either Regional Partnerships or the *Stronger Regions, A Stronger Australia* statement and which generally meet the Regional Partnerships guidelines.

Funding in support of the *Croc Festivals* is consistent with Regional Partnerships guidelines as it is an investment that would strengthen and provide greater opportunities for social participation in the selected communities each year.

It is appropriate to fund *Croc Festivals* from SONA because of the whole-of-Government nature of Australian Government support and because the locations of the *Croc Festivals* events are in more than one Area Consultative Committee (ACC) region. Also, if you agree to fund the *Croc Festivals* from Regional Partnerships, we propose to transfer the funds to the Department of Health and Ageing which co-ordinates the Australian Government's commitment to the initiative, but which would normally be ineligible to receive funding under Regional Partnerships. SONA allows such eligibility criteria to be waived as necessary.

If you agree to fund *CROC Festivals* from Regional Partnerships, no media release is proposed as funding would meet an existing election commitment.

Source: DOTARS assessment recommending approval of funding for CrocFest under SONA.

2:5.54 The assessment noted that, in September 2003, the Prime Minister had requested the then Minister for Regional Services, Territories and Local

Government to consider alternative funding sources for the on-going support of the *Croc* Festivals.

2:5.55 Similarly, two grants were approved under SONA for the Slim Dusty Heritage Centre project without the project demonstrably satisfying the requirements set out in the approved procedures. On 30 September 2003, the government agreed that, subject to the normal requirements of relevant programmes, the Slim Dusty Heritage Centre, to be located at Kempsey in New South Wales, be considered for funding of up to $500 000 from the Regional Partnerships programme.[250] On 29 October 2003, it was agreed between DOTARS, the Australia's Holiday Coast ACC and the Slim Dusty Foundation that, to progress consideration of the project under Regional Partnerships, the Foundation would prepare an application in the normal way. On 3 November 2003, DOTARS advised the then Parliamentary Secretary that:

> To date the Trust has been funded by donations (both cash and in-kind), together with a small grant from NSW Department of State and Regional Development for an initial business plan. These funds have been applied to business planning, promotional material, conceptual design and a scale model of the Centre, as well as a salaried general manager.
>
> Funds are not on hand for the actual construction of the Centre which has been provisionally costed at $12.5m. The Foundation will be seeking $6m from a major private sector sponsor…and $6.5m from the Australian, State and Local Government and major donors/foundation members.
>
> The Centre's design does not lend itself to staged construction so binding commitments for the total cost will have to be secured before the project can proceed to construction. The Foundation intends to use the Australian Government's contribution to leverage funds for the project from these other parties and other levels of government...

2:5.56 The then Parliamentary Secretary approved Regional Partnerships funding of $500 000 (plus GST) on 25 January 2004 under SONA, subject to a number of conditions. DOTARS' 9 January 2004 Minute recommending funding had advised:

> The project is very much at the early stages with a significant level of fund raising to be undertaken and plans and approvals yet to be finalised.

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[250] Government similarly agreed that the project be funded for up to $500 000 from an appropriate programme or programmes in the Communications, Information Technology and the Arts portfolio.

> Given the very early stage of development of this project, there are a number of criteria under the Regional Partnerships guidelines that have yet to be demonstrated. However, the project concept and outcomes clearly meet the guidelines and are consistent with the intent of the programme.
>
> Funding is therefore recommended subject to the following criteria being met by the applicant:
>
> - confirmation of co-funding to the required level;
> - confirmation of the cost of the project based on actual quotes;
> - clarification of on-going access to the land on which the Centre is to be built;
> - all development approvals being granted; and
> - a positive external financial assessment of the operation of the centre.

2:5.57 On this basis, it is evident that the application did not satisfy the requirement under the SONA procedures that it meet the majority of Regional Partnerships selection criteria. On 11 May 2004, the Slim Dusty Foundation provided the then Minister for Transport and Regional Services with a proposal relating to the June 2004 launch of its capital raising campaign to raise the full budget of $12 million. On 17 June 2004, the department recommended that the then Parliamentary Secretary approve a further $500 000 (plus GST) for the project, again through SONA, advising that:

> The Slim Dusty Centre project is seen as a special case for funding under Strategic Opportunities Notional Allocation (SONA) provisions of Regional Partnerships. Projects are considered under SONA where they are consistent with either the goals and priorities of Regional Partnerships or the Stronger Regions, A Stronger Australia Statement.
>
> The project is eligible for funding under SONA. It meets a broad national need that is of national significance and requires the waiver of some specific part of the guidelines or eligibility criteria to be funded.

2:5.58 In respect of neither application did DOTARS articulate the broad national need the project would satisfy or assess the project as satisfying the majority of Regional Partnerships criteria. DOTARS recommended that funding be approved on the basis that:

> Conditional commitment of Regional Partnerships funding should assist the proponent in their efforts to raise the funds required to progress the project.

2:5.59 The then Parliamentary Secretary approved the additional funding on 21 June 2004. As at 25 July 2005, cash funds raised for the project totalled

$3.24 million. As at the completion of ANAO fieldwork in September 2006, a Regional Partnerships Funding Agreement had yet to be signed for either grant. On 8 November 2007, DOTARS advised ANAO that it was still waiting for confirmation of co-funding from the applicant and more information about project costs and, as a result, the Funding Agreement had not yet been finalised.

2:5.60 A further example related to the Christmas Island Mobile Upgrade project. On 6 April 2004, Telstra Corporation Limited provided a proposal for the supply of a replacement mobile phone service for Christmas Island to the then Minister for Local Government, Territories and Roads. The proposal advised that the capital cost would be $3.3 million and that: 'Telstra requires a contribution of $2.5 million to make this service viable.' The remaining $800 000 would be provided by Telstra through an in-kind contribution. No details regarding the make-up of the project costs were provided.[251]

2:5.61 DOTARS' records in relation to this project do not record any background regarding the proposal that the Commonwealth fund this project, or the basis on which it was determined that the request would be referred to Regional Partnerships. A completed Regional Partnerships application form setting out the project's claims against the Programme's assessment criteria was not submitted by Telstra. On the same day that the Telstra proposal was received by the then Minister, DOTARS provided an assessment to the then Parliamentary Secretary[252] recommending that Regional Partnerships funding of $2.5 million (plus GST) be approved under the SONA procedures, advising:

> Following a request by [*Minister for Local Government, Territories and Roads*] for assistance, an application has been received from Telstra seeking funding under Regional Partnerships to establish a new mobile service on [*Christmas Island*]. The existing service is due to be shutdown by November 2004.

2:5.62 In relation to the appropriateness of considering this funding request under SONA, DOTARS advised that:

> This project is seen as providing a communications solution to a very remote community facing extreme circumstances. There are very few, if any, other options. This is seen as a special case for funding under the Strategic Opportunities Notional Allocation (SONA) provisions of Regional Partnerships. Projects are considered under SONA where they are consistent

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[251] The new service to be implemented using the funding would include an on-island billing system.

[252] The Minute was marked as: 'Urgent. Response required by 6 April 2004'.

> with the goals and priorities of Regional Partnerships or the Stronger Regions, A Stronger Australia Statement. Projects are also considered under SONA in special circumstances, for example where funding a proponent which is not normally eligible for Regional Partnerships funding to provide services where no other proponent is able to do so.
>
> This project is considered to meet the SONA guidelines as it is providing a whole of government response (Telstra and DOTARS) and the issue is of national and cross regional significance as it is providing a link for a part of Australia to the rest of the World including other regions in Australia.

2:5.63 However, based on DOTARS' assessment of the project, it is unclear why there was a need to consider this project under SONA, rather than the normal assessment process. The department's assessment (completed in one day despite having received no information supporting the proposed cost of the project or other relevant information) was that the proposal satisfied all Regional Partnerships criteria.

2:5.64 After funding was approved, DOTARS prepared an application for entry into TRAX. In doing so, the department sought information that is normally required prior to an application being assessed, advising Telstra:

> As you would be aware, Telstra supplied sufficient information on which to assess the project. However, in order to complete other fields in the TRAX data base, we require additional information so that our records are complete.
>
> The information needed is:
>
> - **Referee details**. We need a list of referees (organisation, name and telephone number of contact) who can be contacted to confirm the capability and experience of the organisation to manage the project.
> - **Details of past applications** for Commonwealth, State or local government funding for any other projects in last five years.
> - **Project budget** which is to include a description of individual cost items and the contribution being made against each by the applicant.
> - **Project timetable** including milestones, and the payment required against each.

2:5.65 In recommending that funding be approved, DOTARS advised the then Parliamentary Secretary that:

> If approved, it is proposed to transfer the $2.5M to Telstra this financial year. As a government entity Telstra will be able to undertake the management of the funds on behalf of the Department. This is seen as an efficient, effective

> and low risk means of managing the funds. Progress reports will be required from Telstra under this arrangement.
>
> The Deputy Prime Minister supports this project.

2:5.66 The then Parliamentary Secretary approved funding on 6 April 2004. On 17 June 2004, DOTARS executed a Memorandum of Understanding (MOU) with Telstra, rather than the usual legally enforceable Funding Agreement. The full $2.5 million in Regional Partnerships funds was paid to Telstra the same day, despite the project not being expected to be completed until 31 March 2005.[253] DOTARS did not seek or obtain any of the progress reports or financial acquittals required under the MOU until mid-2006, following ANAO inquiries in this regard.

2:5.67 The SONA procedures also stipulated:

> Proposals recommended for approval under SONA will usually have been assessed and have been identified as high priorities through the normal processes, including consultation with the relevant ACC, or else with the ACC Chairs Reference Group where projects are of a national or cross-regional character.

2:5.68 However this was not the case in relation to the majority of the projects set out in Table 2:5.1.

SONA procedures applied retrospectively to confirm an earlier Ministerial decision to fund a project

2:5.69 The SONA procedures were applied by the then Parliamentary Secretary in June 2004 to endorse an earlier decision by the then Minister for Transport and Regional Services to provide funding of $4.5 million (plus GST) for the National Centre in Science, Information Communication Technology and Mathematics for Rural and Regional Education project.

2:5.70 A further example of this practice related to RP01207 Gunnedah Grains to Ethanol, as set out in the Volume 3 to this audit report. That project was identified in DOTARS' advice to the Senate Committee as having been approved through application of the SONA procedures. However, the 5 July 2004 Ministerial decision that the project would be funded was made without consideration being applied to either the Regional Partnerships Programme Guidelines or the SONA procedures.

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[253] In 2003–04, there was an underspend against the appropriation allocated to the Regional Partnerships Programme of $22.049 million (22 per cent).

2:5.71 The department subsequently provided a Minute and departmental assessment of the project against the Guidelines to the then recently appointed Minister for Local Government, Territories and Roads on 23 July 2004. DOTARS identified three options, with the recommended option being that funding not be approved on the basis the project was not suitable for consideration under SONA. Following discussions between the department and the Office of the then Minister for Transport and Regional Services, that Minute was withdrawn. A replacement Minute, submitted on 28 July 2004, now identified two options with the recommended option being the approval of partial funding of $525 000 (plus GST) on the basis the project was suitable for consideration under SONA. Figure 2:5.4 sets out the significantly different conclusions reached by the department regarding whether the project should be considered for funding using the SONA procedures.

Figure 2:5.4

Changes in departmental advice as to whether the Gunnedah Grains to Ethanol project should be considered for funding under the SONA procedures

First departmental Minute: 23 July 2004	Second departmental Minute: 28 July 2004
Options: 1. Reject the application as not meeting Regional Partnerships guidelines or selection criteria. 2. Under Regional Partnerships Strategic Opportunities Notional Allocation Guidelines, agree to partial funding of $525 000 for those elements of the application that are consistent with other activities previously funded under Regional Partnerships…The other elements of the project would not normally be funded as they relate directly to the development of a prospectus, in addition it is normally a condition on all applicants that they meet development approval costs. 3. Approve full funding of the application. This would set a precedent that would be difficult to justify. Many projects of this nature have been rejected in the past and many more are likely to be submitted in the future. **Recommendation** That you agree to Option 1, to not fund the proposed project on the basis that the national benefit of the project has not been sufficiently demonstrated to invoke the waiving of guidelines and assessment criteria under SONA guidelines.	**Options:** 1. Under Regional Partnerships [*SONA*] Guidelines, agree to partial funding of $525 000 for those elements of the application that are consistent with other activities previously funded under Regional Partnerships…The other elements of the project would not normally be funded as they relate directly to the development of a prospectus, in addition it is normally a condition on all applicants that they meet development approval costs. In the circumstances, this is our preferred option and could be justified on the basis that the national benefit of the project has been sufficiently demonstrated to invoke the waiving of guidelines and assessment criteria under SONA guidelines. 2. Exercise Ministerial discretion and approve full funding for the application. This would be entirely consistent with the decision by Minister Campbell to fund the project. It would, however, set a precedent that could be difficult to justify, as many projects of this nature have been rejected in the past and many more are likely to be submitted in the future. In other words, it may be difficult to reject other such projects in future, if this one is funded unconditionally. **Recommendation** You agree to Option 1.

Source: DOTARS' Minutes to the Minister for Local Government, Territories and Roads dated 23 July 2004 and 28 July 2004 regarding RP01207 Gunnedah Grains to Ethanol project, submitted by Primary Energy Pty Ltd. [*ANAO highlighting*]

2:5.72 The substantial changes in the department's advice to the Minister as to whether the project was a suitable candidate for consideration under the SONA procedures highlights, amongst other things, inconsistencies in the application of the procedures, as well as the extent of latitude available, both of which have implications for accountability and transparency.

Transition arrangements for applications made under legacy programmes

2:5.73 As was recognised by the Senate Committee[254], the approach taken in respect to the Gunnedah Grains to Ethanol project also raised questions in regard to the adequacy of the transitional arrangements that had been put in place in respect to outstanding applications to the legacy programmes incorporated into the Regional Partnerships package.

2:5.74 DOTARS advised the Senate Committee that it was appropriate for the project to be considered under the SONA procedures because the activities for which it sought funding were not ineligible under the Namoi Valley Structural Adjustment Package (NVSAP) guidelines**.** For example, on 12 August 2005, DOTARS advised the Senate Committee that:

> The reason this was considered under the SONA procedures was that it was an application under the Namoi Valley Structural Adjustment Package. The reason for that was that it was for a prospectus, which is precluded from funding under Regional Partnerships eligibility guidelines. Those eligibility restrictions did not apply under the Namoi Valley Structural Adjustment Package. I guess that was the reason why this was put forward under the SONA procedures: that it would have been unfair to judge the project against criteria that did not apply at the time the application was made.[255]

2:5.75 However, this advice did not reflect the approach taken in respect to applications to other legacy programmes subsumed into Regional Partnerships. The Internal Procedures Manual specified transitional arrangements for applications submitted under the Regional Assistance, Regional Solutions and Rural Transactions Centre programmes. The transitional arrangements for the first two programmes provided that outstanding applications would be assessed under the new Programme's guidelines. The internal procedures provided for an explicit exception to be

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[254] Senate Committee Report, op. cit., pp. 209–210.

[255] Official Committee Hansard, Senate Finance and Public Administration References Committee, Reference: Regional Partnerships Program, Friday, 12 August 2005, F&PA58.

made in relation to applications developed under the Rural Transaction Centre programme criteria.

2:5.76 By way of comparison, the transition arrangements identified in relation to NVASP only contemplated new applications, which would be considered under the auspices of the 'assisting structural adjustment for communities' objective of Regional Partnerships (see Figure 2:5.5).

Figure 2:5.5

Transition arrangements for existing NVSAP applications

Namoi Valley Structural Adjustment Package (Transition Arrangements / Issues**)**

The NVSAP will be *assisting structural adjustment for communities* under the new programme. NVSAP project proponents will be able to use the new programme application form. In common with applicants from other areas, potential NVSAP projects will need to consult with the local ACC: the New England North West ACC (NENWACC) or the Orana Development and Employment Council. Structural Adjustment projects will be directed through the Namoi Valley Advisory Committee (NVAC—a sub-committee of the NENWACC), and projects eligible under other new programme priorities will be directed to the Department for assessment. Local priorities based on a socioeconomic study of the area will also be used to assess NVSAP projects. The NVAC will continue to guide proponents on the best course for their projects, and use their local knowledge and expertise to advise the ACC, DOTARS and the Minister on the best projects to fund in the Namoi Valley region.

Source: Regional Partnerships, Internal Procedures Manual, July 2003, p. 119.

2:5.77 As indicated in Figure 2:5.5, DOTARS' Internal Procedures Manual made no provision for NVSAP applications submitted prior to the commencement of the Regional Partnerships Programme to be assessed against criteria other than those set out in the Regional Partnerships Guidelines. ANAO further notes that, in both of the Minutes to the Minister prepared by the department in July 2004 in relation to this project, DOTARS advised that:

> While the project met some of the Namoi Valley Structural Adjustment Package assessment criteria it was still deficient in that:
>
> 1. No other funds are being provided from other partners.
>
> 2. The applicant is providing a relatively small contribution, particularly given the commercial nature of the project.
>
> 3. There are significant issues surrounding the viability of the project.
>
> However, the application was recommended under the Namoi Valley Structural Adjustment Package by New England North West ACC and the Namoi Valley Structural Adjustment Package Advisory Committee in June 2003 for an amount of $1.1 million subject to the applicant meeting performance measures based on the confirmation of financiers and a positive

> financial "due diligence' exercise. The due diligence exercise was being organised by the Department when it was put on hold.

2:5.78 This case highlights the need for careful consideration of transitional arrangements for programmes subsumed into new programmes so as to ensure decision-making is transparent, consistent and defensible.

Replacement of the SONA procedures

2:5.79 In the October 2005 report of its inquiry, the Senate Committee recommended that the operation of the SONA procedures cease[256], noting that:

> The ANAO's *Administration of Grants Better Practice Guide* states that 'Criteria for eligibility should be straightforward, easily understood and effectively communicated to potential applicants'. The SONA procedures were only made publicly available after the program became subject to intense scrutiny in the Parliament with the Government under pressure to explain some of its funding decisions. Prior to this the SONA procedures had limited circulation via an internal procedures manual only available to relevant DOTARS employees and to members and staff of the ACCs. Even then, as demonstrated at the Committee's hearings, the procedures were not commonly known or understood by ACC chairs and executive officers. Applicants, as in the case of Primary Energy, were left in the dark about the existence of the procedures and that they had been used to approve funding for their project.
>
> The SONA procedures represent a major accountability black hole. They expand the scope for departmental and ministerial discretion to unacceptable limits, providing a default to fund projects in an arbitrary fashion and undermining the integrity of the program.[257]

2:5.80 On 31 October 2005, the then Minister for Transport and Regional Services proposed to the Prime Minister that, as part of changes to improve the effectiveness of ACCs, their governance and the Government's ability to advise ACCs transparently concerning its policy priorities, the Minister:

> develop guidelines which provide for the Government to direct a pool of funds allocated to the RP programme for a specific investment priority which may not otherwise be brought forward by ACCs.

2:5.81 The Prime Minister agreed to the proposed changes on 9 November 2005. On 15 November 2005, the then Minister announced that:

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[256] Senate Committee Report, op. cit., p. 198, Recommendation 1.

[257] ibid.

> The Government may, from time to time, direct a pool of funds within the RP program for a specific investment priority which may not otherwise be brought forward by ACCs.[258]

2:5.82 However, specific guidelines were not developed in respect to:

- how, and in what circumstances, Regional Partnerships funds would be directed toward specific investment priorities;
- whether any such investment priorities would relate to individual projects or be more in the nature of 'mini-programmes' for which applications would be sought; or
- whether projects funded as a specific investment priority would be required to satisfy the Regional Partnerships assessment criteria and, if not, the circumstances in which this could occur.

2:5.83 In this respect, in providing proposals to the then Minister for the implementation of Programme changes, DOTARS recommended on 24 November 2005 that the SONA procedures be removed and that the flexibility to fund projects under Ministerial discretion be made explicit in the Programme Guidelines. DOTARS advised:

> From time to time the Government may wish to use the program to fund a regional priority that has not been identified by an ACC. The most likely example is in the case of a structural adjustment package where the government may wish to use *Regional Partnerships* to deliver a regional development/adjustment element. In this and other instances there is little point in developing detailed criteria—Governments should have the ability to direct funding to priorities as they see fit.
>
> The Department recommends that the Strategic Opportunities Notional Allocation procedures be removed and that the flexibility to fund projects under Ministerial Discretion be made explicit in the guidelines, as follows:
>
> > *Regional Partnerships* is a Discretionary Grants program. In exceptional circumstances, the Australian Government may decide to waive these criteria in whole or in part, at the discretion of the Ministerial Committee. The Australian Government may also decide to fund specific initiatives through the program's objectives.

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[258] Media Release, Minister for Transport and Regional Services, *Changes to make Regional Partnerships Stronger*, 15 November 2005, 051WT/2005, Attachment.

2:5.84 In agreeing with the recommendation, the then Minister indicated that he would prefer the pools to deal with specific nationwide concerns rather than localised industry adjustment. Revised Regional Partnerships Guidelines issued in July 2006 stated that:

> The Australian Government may choose to fund other specific initiatives through the *Regional Partnerships* program.[259]
>
> …The Australian Government may also decide to fund other specific initiatives that meet the aims of the *Regional Partnerships* program.[260]

2:5.85 The revised Guidelines did not include the explicit statement recommended by DOTARS that:

> In exceptional circumstances, the Australian Government may decide to waive these criteria in whole or in part, at the discretion of the Ministerial Committee.

2:5.86 Accordingly, it is unclear whether specific initiatives funded through Regional Partnerships will be required to satisfy the Programme criteria. In response to a request for advice, DOTARS advised ANAO on 8 November 2007 that: 'the Department assesses all applications against the published Guidelines.'

2:5.87 The November 2006 Government Response to the Senate Committee's recommendations noted the recommendation relating to the cessation of the SONA procedures and referred to the statement made in the Minister's November 2005 Media Release (see paragraph 2:5.81). The Government response further stated:

> The *Regional Partnerships* programme has been used by the Government to deliver associated programmes. One such example is the Rural Medical Infrastructure Fund, which is based on *Regional Partnerships* programme guidelines but is also subject to specific criteria. These criteria are published on the *Regional Partnerships* web site. When new Government priority areas are identified, additional or modified guidelines or criteria may be issued as required, and published on the *Regional Partnerships* web site.
>
> The SONA procedures have not been used since August 2004 and it is considered that special considerations such as those made under SONA procedures will no longer be required.

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[259] DOTARS, Regional Partnerships Guidelines, July 2006, p. iii.

[260] ibid., p.2.

2:5.88 In May 2007, in response to a query from the Senate Standing Committee on Rural and Regional Affairs and Transport as to whether the SONA procedures were still in place, DOTARS advised that:

> The SONA principles have not been included in the new guidelines that were released in July last year…We are currently rewriting the procedures manual. They were addressed through our internal procedures manual that is currently in the process of being rewritten.[261]

Recommendation No.6

2:5.89 ANAO *recommends* that, in the interests of transparency, accountability and equity, the Department of Transport and Regional Services develop, for consideration by the Ministerial Committee, amendments to the published Regional Partnerships Programme Guidelines documenting the circumstances in which the eligibility and assessment criteria set out in the Guidelines may be waived.

DOTARS response

2:5.90 Agreed.

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[261] In this respect, a draft 'RP Assessment Guide' included in the draft revised Internal Procedures Manual provided to ANAO by DOTARS in June 2007 retained reference to the SONA procedures, with assessors to be required to identify whether a project was a SONA project or not; the reason for SONA classification; and SONA special considerations. The draft Internal Procedures Manual did not include any procedures that would apply in relation to the funding of specific initiatives through the Programme.

2:6 Ministerial Decision-making Processes

This chapter discusses the extent to which the procedures that will be followed in deciding the outcome of Regional Partnerships grant applications have been documented and consistently applied.

Introduction

2:6.1 Various reviews of the administration of discretionary grant programmes, including Parliamentary Committee inquiries and reviews and ANAO performance audits, have highlighted the importance of the procedures that will be followed in the selection of successful applicants being formulated and documented in advance of any selection process, and being consistently and transparently applied. This assists in ensuring accountability for decisions, equity in the treatment of applicants, and the avoidance of perceptions of bias or political interference. In this respect, the ANAO Administration of Grants Better Practice Guide advises:

> It is important that the appraisal and selection processes be transparent and free from the risk of claims of political or other bias. It is better practice for all like applications to be assessed using a common appraisal process, and where there is a departure from the common approved process; the reasons should be documented.[262]
>
> …the objective of the appraisal process is to select those projects that best represent value for money in the context of the objectives and outcomes of the grant program. In order to achieve this it is essential that all applications are consistently considered against the criteria established during the planning stage. Applications should only be assessed against the relevant pre-specified criteria, in accordance with the requirements of procedural fairness.[263]
>
> …Public accountability is largely dependent on transparency, which is dependent on proper maintenance and availability of relevant documentation. This means that the entire appraisal process should be documented in adequate detail. In particular, the reasons for departures from agreed appraisal procedures or decisions that are contrary to recommendations of officials or other expert panels and advisers should also be properly documented. Ideally

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[262] ANAO Better Practice Guide—Administration of Grants, op. cit., paragraph 3.14, p. 43.

[263] ibid., paragraph 3.25, p. 45.

> decision-makers and their staff should retain working papers and notes taken at the time decisions were made. The retention and availability of these records protect all those involved in the selection process against any suggestion that projects have not been selected on their merits. This provides greater public confidence in the selection process and could assist officials in assessing similar applications in future.[264]

2:6.2 In this context, in the report of its inquiry, the Senate Committee concluded that:

> The Committee considers that administration of the RP program can be improved by requiring adherence to the usual application development and assessment processes and tightening these measures. Guidelines and procedures which deliberately create flexibility or ambiguity and thus allow projects to avoid the program's usual criteria and administrative processes should be removed.[265]

2:6.3 The procedures for the assessment and approval of Regional Partnerships applications are documented in Ministerial decisions regarding the conduct of the Programme; the published Programme Guidelines that are available to potential applicants; DOTARS' Internal Procedures Manual; and, more recently, recorded decisions of the Ministerial Committee regarding its decision-making processes.

2:6.4 The July 2006 version of the Programme Guidelines provided the following advice to potential applicants:

> The Committee will consider each application based on:
>
> - the Department's advice concerning the project's consistency with the program's assessment criteria;
> - the ACC's advice concerning local priorities, and
> - other information about local circumstances.
>
> …The Ministerial Committee will consider information on local circumstances drawn from a variety of sources that may include one or more of the following:
>
> - the application;
> - the ACC;

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[264] ibid. p. 47.

[265] Senate Committee Report, op. cit., p. 197.

- the Department's regional office;
- letters of support, and
- other sources of advice on local circumstances.[266]

Ministerial decision-maker interaction with applicants

2:6.5 The published Programme Guidelines advise potential applicants that their applications will be assessed against the assessment criteria set out in the Guidelines, and that funding decisions are at the discretion of the Ministerial decision-maker(s). Once submitted to the department, the majority of Regional Partnerships applications proceed through the departmental assessment and Ministerial decision-making processes, with the involvement of applicants being limited to providing any further advice or documentation that may be requested by the department to assist in its assessment of the application.

2:6.6 However, ANAO noted instances in which applicants were provided with an opportunity to engage with the department and/or Ministers (or their Offices) during the decision-making process in a manner that is not generally available or made known to potential applicants.

2:6.7 An example of this was examined in ANAO's case study of RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith which sought Regional Partnerships funding of $571 500 (plus GST). In that case, based on the findings of an external viability assessment, the department had recommended to the Ministerial Committee on 13 January 2006 that funding not be approved. The Committee had referred the application back to the department for further information, which it was due to consider at its 15 February 2006 meeting.

2:6.8 The applicant formally withdrew the application on 13 February 2006, with a view to re-submitting once it had addressed the department's concerns regarding the viability of the application.[267] On the same day, the Office of the then Minister for Transport and Regional Services requested that the department provide feedback to the applicant on why it had not recommended the application and what would need to be strengthened in the application should it wish to resubmit.

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[266] DOTARS, Regional Partnerships Guidelines, July 2006, p. 14.

[267] How the applicant had become aware that the department had concerns with the application is not documented. On 22 August 2007, DOTARS advised ANAO that: 'The information was not provided by the Department prior to the withdrawal of the application.'

2:6.9 As ANAO's case study outlines, the decision-making processes subsequently applied in relation this project departed from the documented procedures in a number of areas. These included that, through its subsequent actions and advice to the applicant, the department effectively 're-activated' a formally withdrawn application, without having received a formal request in that regard from the applicant. The department also provided this applicant with the opportunity to comment on assessment material not usually provided to applicants. The department submitted a second recommendation that the project not be approved for funding to the Ministerial Committee on 6 April 2006.

2:6.10 The applicant was also provided with the opportunity to engage with the Minister and the Minister's Office in respect to its application in a manner that is not generally available to applicants. In particular, despite at least one member of the Ministerial Committee having already signed his agreement with the department's second recommendation that funding not be approved, a meeting was held on 24 May 2006 between the applicant, the Member for Barker, two Ministers on the Committee and staff from their Offices. The only record of the meeting held by DOTARS was an unsigned document titled 'Meeting Minutes Draft.' The departmental records in relation to this application did not include any record as to who instigated the meeting or its purpose. The Ministerial Committee subsequently disagreed with the departmental recommendation and approved funding of $571 500 (plus GST) for the project at its 31 May 2006 meeting. The Committee did not record a reason for the decision.

2:6.11 Another example of an applicant being provided with the opportunity to meet with the Ministerial decision-maker during the decision-making process related to RP01178 Maddington Kenwick Community Engagement project. That application sought Regional Partnerships funding of $185 000 (plus GST) for a community engagement project for planning and implementing an urban regeneration programme. The application was submitted on 20 July 2004. The departmental assessment provided to the then Parliamentary Secretary on 28 February 2005 recommended that funding not be approved because the application was assessed as representing cost shifting and not satisfying the outcomes, partnerships and support and project viability criteria. The department's assessment had noted that:

> No letter of support has been received from the local member (Federal Member for Canning, Mr Don Randall) as he joined a delegation with the City of Gosnells Mayor and Chief Executive Officer on 17 February 2005 to meet

> with Mr Cobb to discuss this project. I understand that Mr Randall also undertook a similar visit in late 2004.[268]

2:6.12 On 11 April 2005, the then Parliamentary Secretary disagreed with the department and approved partial funding of $60 000 (plus GST) for one specific element of the project.[269]

2:6.13 As was noted by the Senate Committee in the report of its inquiry, RP01319 A2 Milk Processing project was another example of the Ministerial decision-maker meeting with an applicant during the assessment process. The application, seeking Regional Partnerships funding of $1.2 million (plus GST) for a project involving a proposal to form a new company to develop and construct an A2 milk processing plant in Far North Queensland, had been submitted on 9 July 2004.[270] The Senate Committee noted that:

> A meeting regarding the possible A2 grant was held on 31 July 2004 between the parliamentary secretary (who chaired the meeting), representatives of A2DM, [*Executive Officer of the Far North Queensland ACC*] and nine or ten local dairy farmers. [*name omitted*], one of the dairy farmers who attended the meeting, recalled that the parliamentary secretary:
>
>> …gave us a briefing and promised that she would do something about it, because she wanted us to be able to negotiate for prices and get better returns…She gave a commitment that she would look into the grants and see what she could do. That is all we knew, as farmers. After that, we went home.[271]

2:6.14 The departmental assessment, submitted to the then Parliamentary Secretary on 27 August 2004, assessed the application as only partially

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[268] In this respect, ANAO notes that the project was identified as being located in the electorate of Hasluck. That electorate was a marginal Labor electorate when the application was submitted on 20 July 2004. The electorate became a marginal Liberal electorate at the October 2004 Federal election. The then Parliamentary Secretary signed a letter to the Member for Hasluck advising of funding approval on 26 April 2005.

[269] The Regional Partnerships amount approved for that budget item was based on the notional attribution in the application budget, which had assigned $10 000 in co-funding from the applicant for that item. As a result, there was little partnership funding being provided toward the element of the project considered by the then Parliamentary Secretary to be eligible for funding under the Regional Partnerships Guidelines, with the approved Regional Partnerships funding representing 86 per cent of the cost of that item.

[270] Senate Committee Report, op. cit., p. 104. The application was submitted into TRAX on 17 August 2004.

[271] ibid., p. 105.

satisfying the partnerships and support criterion[272] and recommended partial funding of $478 500 (plus GST), subject to a number of conditions. Unlike the approach taken in respect to RP01178 (see paragraph 2:6.11), the departmental assessment for this project made no reference to the then Parliamentary Secretary having met with the applicant during the assessment process. On 29 August 2004, the then Parliamentary Secretary disagreed with the department and approved funding of $1 153 000 (plus GST), subject to specified conditions.[273]

2:6.15 The capacity to provide certain applicants with opportunities not made available to the majority of applicants is, in part, made possible by the flexible administrative arrangements applied to the Regional Partnerships Programme. In particular, the absence of funding rounds, with each application considered in isolation, provides greater opportunity to depart from normal processes in respect to a particular application than might otherwise be the case.

2:6.16 In this context, in August 2007, DOTARS advised ANAO that:

> The Department notes that applicants often seek meetings with Ministers and correspond with them as they choose. The Department also notes that it is a Minister's prerogative to meet with constituents.

2:6.17 The documented Programme procedures have not identified any guidelines in respect to the manner in which the Ministers and/or their Offices will interact with applicants, local Members or the department in reaching a decision on an application. Nor have procedures been articulated to provide for such interactions to be documented where they are significant to the information being considered by the Minister in relation to individual grant applications. Due to the importance of applicants having equitable access to grants programmes and all material factors leading to decisions being documented, it would be prudent for the department to, in consultation with Ministers, extend its current guidance to deal with these matters. Such guidelines would contribute to greater transparency in the administration of

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[272] This was due to the low partner cash contributions (17 per cent) for a commercial venture of this nature (which the assessment advised would normally be expected to be between 60 and 70 per cent of cash costs) and the department's assessment that the bulk of the proposed in-kind contributions could not be considered genuine in-kind for this particular project.

[273] This approval was given on the basis that the Parliamentary Secretary disagreed with the department's assessment regarding the proposed in-kind contributions and did not consider that legitimate competitive neutrality concerns arose in the circumstances of the potential competitor of the proposed plant.

the Programme while recognising the responsibility of Ministers to act in the broad public interest.

Recommendation No.7

2:6.18 ANAO *recommends* that, in the interests of accountability, transparency and equity during the assessment and decision-making stages, the Department of Transport and Regional Services develop, for consideration by the Ministerial Committee, procedures for recording the participants and outcomes of any significant meetings or substantive communications that may occur between applicants and Ministers and/or their Offices in relation to Regional Partnerships applications.

DOTARS response

2:6.19 Agreed.

Role of local Members

2:6.20 As noted, the Programme Guidelines advise that, in addition to information provided through the application, the relevant ACC, the department's regional office and letters of support, the Ministerial Committee may also consider information on local circumstances from 'other sources of advice'. The Programme Guidelines have not elaborated on typical sources of advice that may assist in such considerations.

2:6.21 In this respect, from its commencement, the Programme Guidelines have made explicit reference to the potential for applicants to provide letters of support to be taken into account in assessing whether the application satisfies the partnerships and support assessment criteria, including from Federal Members of Parliament. This most often occurs in relation to projects located in the Member's own electorate (or State for Senators), but this is not always the case. The departmental assessment provided to the Ministerial decision-maker(s) normally lists the parties from whom the applicant had obtained a letter of support. Where a Federal Member of Parliament has given a letter of support, this is usually listed first.

Role of Members in the development and sponsorship of projects

2:6.22 It is often the case that local Federal Members are involved in assisting constituents in their electorate to develop projects that may be eligible to apply for Regional Partnerships funding. This may extend to the Member being involved in the relevant ACC's consideration of whether it supports the applicant submitting a Regional Partnerships application and/or, after an application has been submitted, the ACC's consideration of the priority rating it will apply to the project for advice to the Ministerial decision-maker.

2:6.23 The extent to which Members are involved in such processes varies, with some Members being more active in this area than others. In some cases, a Member will simply express support for a project. In other cases, a Member may be actively involved in developing the application.

2:6.24 For example, ANAO's case study of the unsuccessful application RP00203 Upgrade Sawmilling Capacity to Meet Export Demand (which also examines a subsequent application by the same applicant) noted that, in that case, the Member for Maranoa had played a significant role in determining the amount of Regional Partnerships funding the commercial applicant should apply for. The application was being contemplated as a means of replacing the applicant's existing furniture manufacturing machine, which had been destroyed by a fire at its premises on 12 August 2003, for which the applicant was under-insured. The applicant was also taking the opportunity to upgrade to a larger machine through the acquisition of used, leased equipment.

2:6.25 There are also examples of a Member or his or her Office being involved in supporting projects located in a neighbouring electorate. This was the case, for example, in relation to RP01178 Maddington Kenwick Community Engagement project (see paragraph 2:6.11 and footnote 268). Another example related to the application submitted in July 2004 in relation to RP01184 Provision of Rescue Services for the Central Coast (which was subsequently announced as an election commitment project during the 2004 election campaign). Although that project was located in the electorate of Dobell and the relevant Ministerial decision-maker would be the then Parliamentary Secretary, the Office of the then Minister for Local Government, Territories and Roads and Member for Robertson (a neighbouring electorate) had taken a particular interest in the departmental assessment process in relation to the application prior to the election being called.

Development of guidelines relating to the role of local Members

2:6.26 As discussed in Chapter 3 in this part of the audit report, two of the changes to the Regional Partnerships Programme proposed to the Prime Minister by the then Minister for Transport and Regional Services in October 2005 were that:

- guidelines be developed to clarify the role of Members and Senators in the development and sponsorship of projects to avoid criticism that their role reflects a political rather than electorate interest; and
- local Members of Parliament be consulted as part of the process of developing each ACC strategic plan.

2:6.27 As also discussed, *Guidelines for ACCs on Consulting with Local MPs and Senators* distributed to the ACC network on 9 October 2006 focused on ACC Chairs, members and staff working cooperatively with their local Members of Parliament in the development of their Strategic Regional Plan. In relation to the role of Members and Senators in the development and sponsorship of specific projects, the guidelines provide limited guidance regarding the extent to which Members and Senators should participate in ACC meetings, including that:

> While MPs and Senators are able to express support for *Regional Partnerships* projects verbally or in writing, they should absent themselves from ACC meetings when projects are being rated.

Involvement of local Members during the decision-making process

2:6.28 As the recently developed *Guidelines for ACCs on Consulting with Local MPs and Senators* are focussed on the involvement of Members and Senators in the consultations and deliberations of ACCs', they did not clarify what, if any, role Members and Senators may play in the on-going promotion of projects to the Minister once the application has been submitted to DOTARS, and the relevant ACC has decided upon its rating and recommendation (which usually occurs soon after the application has been submitted).

2:6.29 The published Programme Guidelines do not address the circumstances of local Members lobbying the Ministerial decision-maker(s) in support of a project other than through providing applicants with letters of support for inclusion with their application. In this respect, in July 2007, DOTARS advised ANAO of the following in relation to the role of local Federal Members:

> the Programme Guidelines note:
>
> - that where possible applicants should obtain letters of support from Federal Members or elected representatives of the three levels of government (Section 4.3); and

- that a representative of the Australian Government or the ACC may also contact the applicant to make arrangements for a public launch of the project (Section 5.4).

Local Members of Parliament are not involved in:

- the assessment of projects against the Programme criteria (this is done by the Department); or
- decisions to approve of not approve funding (these are taken by the Ministerial Committee).

2:6.30 However, in the three-year period examined by ANAO there had been instances in which the local Member played a more extensive role in the Ministerial consideration of particular applications than is identified by the Programme Guidelines.

2:6.31 For example, as discussed in ANAO's case study of RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith project, the Member for Barker had provided a letter of support in relation to the application on 11 August 2005. On 7 November 2005, the Member wrote to the then Minister for Transport and Regional Services to advise of a technical conflict of interest in relation to the applicant. As noted at paragraph 2:6.10, the Member subsequently participated in a meeting involving the applicant and two members of the Ministerial Committee. The Member also acted as a conduit between the applicant and the then Minister's Office for the provision of additional information during the Ministerial Committee's consideration of the department's recommendation that funding not be approved for the project. On 31 May 2006, the Ministerial Committee disagreed with the department and approved funding of $571 500 (plus GST).

Local Member involvement following advice of unsuccessful applications

2:6.32 Another area in which some local Members appear to have played a more extensive role in the Ministerial decision-making process for some applications than is contemplated in the Programme procedures related to the revisiting of Ministerial decisions to not approve funding for an application.

2:6.33 In the case of all approved grants, the responsible Minister signs a letter to the local Federal Member advising of the grant approval. In the case of Coalition Members, this advice is also often initially provided verbally through the Minister's Office.

2:6.34 The Programme procedures do not make provision for either the department or the Ministerial decision-maker(s) (or their Offices) to notify either Coalition or non-Coalition local Members in respect to decisions to not approve an application. In this respect, in July 2007, DOTARS advised ANAO that:

> The draft updated Procedures Manual…states:
>
> > The Assessor shall prepare a package for a '**not recommended**' assessment that contains:
> >
> > - a covering minute
> > - the Ministerial Committee brief
> > - a notification letter to the applicant, and
> > - a notification letter to the relevant ACC with a copy of the letter to the applicant.
>
> The Department notes that this procedure makes no reference to informing Senators and Members of Parliament of unsuccessful projects.

2:6.35 DOTARS further advised ANAO that:

> In response to ANAO's observation that there is nothing in the Procedures Manual in relation to Ministers liaising with other MPs about projects, the Department notes that the Procedures Manual is for Departmental staff—it does not attempt to address the matter of discussions between Ministers and Senators and Members of Parliament.

2:6.36 In this context, the practices employed under the Regional Partnerships Programme for the informal and formal discussion of the result of individual grant applications appear to have provided some Federal Members of Parliament with greater opportunities to lobby the Ministerial decision-maker(s) on behalf of their constituents than has been available to other Members.

Revision of Ministerial funding decisions

2:6.37 Once the Ministerial decision-maker has taken a formal decision to approve or not approve funding for a particular application, it is important that any revision of that decision be undertaken in a transparent manner, in accordance with the Programme decision-making documentation.

2:6.38 In the majority of cases, DOTARS' records included clear documentation regarding the Ministerial funding decision that had been taken in respect to individual applications. However, ANAO noted instances in which this was not the case.

Rescinding a decision to not approve funding

2:6.39 The Programme procedures provide that, where the Ministerial decision-maker has taken the decision to not approve funding for a particular application, the department is advised of the decision and subsequently provides a letter to the unsuccessful applicant advising of the decision and the reasons for the application not being approved. Unsuccessful applicants are also advised of the process applying to any request for a review of that outcome.

2:6.40 Because Regional Partnerships is a non-statutory discretionary grants programme, the merits of a Ministerial decision are not subject to review. However, since its commencement, the Programme has included provision for unsuccessful applicants, or applicants that are approved for less funding than requested, to seek a review of the departmental assessment that informed the Ministerial decision-making process.

2:6.41 Prior to July 2006, information regarding the review process was provided through Fact Sheets available on DOTARS' website, and in the letters provided by the department to unsuccessful applicants. From July 2006, the publicly available Guidelines have included advice regarding the review process and the circumstances in which a review may be granted. In order to be eligible for a review, an applicant must satisfy pre-requisite criteria, being:

- the applicant must write to a nominated position in the department within a specified period after receiving the letter advising them of the outcome of their application. Until July 2006, that period was 12 weeks. Under the review process outlined in the Guidelines since July 2006, it is six weeks; and
- the request for review must include a statement of claims from the applicant demonstrating that:
    - the information supplied in the original application had been misinterpreted or misunderstood; or
    - proper procedure had not been followed.

2:6.42 Until January 2006, the approved review process specified that the provision of new information did not constitute grounds for a review. In August 2005, the department provided a briefing regarding the review process to the newly-appointed Minister for Transport and Regional Services. The then Minister advised that he had concerns about the value of the reviews and, in the context of approving changes to the Programme, advised the department on 30 November 2005 that:

> I am not happy with current limited grounds for appeals. Applicants should be able to provide new info—or be encouraged to lodge an amended application.

2:6.43 On 16 December 2005, DOTARS proposed the following revisions to the existing review process to the Ministerial Committee:

> - So that appellants are aware of how their application was interpreted when presented to the Ministerial Committee, rejection letters should contain the full and actual reasons for rejection, and should also attach an appropriate and sufficiently detailed extract from the advice provided to the Committee. Given the privileged status of advice to the Ministers, we would not propose attaching the whole advice; just an extract. In future, the Department proposes to provide the Ministerial Committee with a draft copy of the rejection letter as part of its briefing. This will ensure that the Committee agrees with the reasons for rejection that are communicated to the applicant.
> - Appellants may already lodge a new application under existing procedures if they wish to introduce new information. This is appropriate where the new information materially alters the substance or intrinsic nature of the original application: for example, revised budget figures, duration of the project, or levels of partner contributions. However, we would propose that new information that helps to rectify a misunderstanding or misinterpretation on the part of departmental officers should be taken into account when formulating any recommendations to the Ministerial Committee.[274]

2:6.44 On 27 January 2006, the Ministerial Committee agreed that:

- future DOTARS rejection letters would contain the full and actual reasons for rejection, as well as attaching an appropriate and sufficiently detailed extract from the departmental advice provided to the Ministerial Committee on the original application; and

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[274] In proposing the changes to the review process, DOTARS advised the Committee that: 'In the two and a half years since the inception of the *Regional Partnerships* program, approximately 318 applications for funding have been rejected by Ministers or Parliamentary Secretaries. However, 43 (14 per cent) of the unsuccessful applicants have subsequently appealed against the decision under program guidelines. Of the 43 requests for review up to 30 November 2005, 5 were withdrawn, and 28 were declined because they did not meet the criteria for instigating a formal review (one project was subject to two separate reviews). Of the 9 that were reviewed, 6 affirmed the Minister's original decision; 2 were recommended to be reconsidered, and resulted in the reversal of the original decision. One case is currently being reassessed. 20 of the 43 requests have been received in the last 6 months.'

- appellants would be able to provide new information as part of the review process where the information helped rectify a misunderstanding or misinterpretation on the part of departmental officers who had advised the Ministerial Committee on the original application.

2:6.45 The first agreed change does not appear to have been fully implemented. Although draft rejection letters were attached to the assessment of ‘not recommended’ projects subsequently submitted to the Ministerial Committee, ANAO did not observe any instances in which the rejection letter sent to an unsuccessful applicant was accompanied by an extract from the departmental advice to the Committee.

2:6.46 The second agreed change was implemented. The Programme Guidelines now provide that, in addition to the criteria set out at paragraph 2:6.41, a request for review may show that further information subsequently provided by the applicant may alter the original information. The Guidelines state:

> Applicants must provide a detailed explanation of why they are requesting a review and include any new information that might assist the claims of the project as long as the new information is provided to clarify any information already provided and does not substantively alter the nature or scope of the original application. If new information is provided in the review request that substantially changes the nature or scope of the original application, the Ministerial Committee will be advised that the application has been altered and, subject to the views of the Ministerial Committee, the applicant may need to submit a new proposal.
>
> Examples of new information could include new partnership arrangements, new partners, changed budget or significant changes to the scope and activity to be undertaken in the project.[275]

2:6.47 If the criteria for a review are satisfied, the project assessment and funding recommendation are reviewed by departmental staff not involved in the original assessment. Based on the outcome of the review, the department then makes a recommendation to the Ministerial decision-maker(s) that the original decision be either upheld or overturned. Consistent with Ministers’

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[275] DOTARS, Regional Partnerships Guidelines, July 2006, p. 15.

role under the Programme as approver for the purposes of FMA Regulation 9, Ministers also make all final decisions on the outcome of reviews.[276]

2:6.48 In October 2005, DOTARS provided the Senate Committee with written answers to questions it had taken on notice at the Committee's Regional Partnerships Programme inquiry hearing on 12 August 2005. The department's advice to the Committee confirmed that only unsuccessful applicants are able to request a review of a Regional Partnerships decision.[277]

Non-approval decisions revisited through processes other than the documented review process

2:6.49 ANAO noted instances in which the decision-making process applied to particular applications did not comply with the documented procedures for review in relation to an unsuccessful application.

2:6.50 For example, ANAO's case study of RP01364 Country Homes and Cabins outlined that, on 18 February 2005, the then Parliamentary Secretary signed the departmental project assessment agreeing with the department's recommendation that funding not be approved. On 22 February 2005, the Departmental Liaison Officer to the then Parliamentary Secretary's Office advised the department of the decision and advised that it could now write to the unsuccessful applicant (in accordance with the documented procedures).

2:6.51 However, before that could occur, the Member for Maranoa, in whose electorate the project was located, wrote to the then Parliamentary Secretary on 23 February 2005 requesting that the decision not to approve funding be reconsidered and seeking the opportunity to discuss the issue with the

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[276] A draft of a revised Internal Procedures Manual provided to ANAO by DOTARS in June 2007 advised: 'Up to December 2006, only 5% of applications accepted for review have led to the original Ministerial decision being overturned. Approximately 74% of applicants who reapply with a new application for *Regional Partnerships* funding, having addressed the reasons why the original application was unsuccessful, have had their application approved.'

[277] See <www.aph.gov.au/senate/committee/fapa_cttee/reg_partner_prog/hearings/dotars051005.pdf> [accessed 29 October 2007]. One of the questions answered related to whether the department had received any representations from the Federal Member for Kalgoorlie or his office or the then Minister for Transport and Regional Services or his staff seeking a review of the non-approval in July 2004 of the first application received in relation to the Newman Town Centre Revitalisation project. The department's 5 October 2005 advice to the Senate Committee was: 'The Member for Kalgoorlie, Mr Barry Haase MP, wrote to former Parliamentary Secretary, the Hon De-Anne Kelly MP, in support of this project following her decision not to approve the first application for funding under the *Regional Partnerships* program. The Department is also not aware of any requests from the Shire of East Pilbara, the Pilbara ACC or the former Minister's office for a review of this decision on the original project application. Only unsuccessful applicants are able to request a review of a decision not to approve a project application under the *Regional Partnerships* program.'

Parliamentary Secretary as soon as possible. The Parliamentary Secretary's Office had recorded that it had verbally advised the Member of the decision to not approve funding on 18 February 2005 at 6:10 pm. Contrary to the documented procedures for the review of unsuccessful applications, the decision not to approve funding was reconsidered as a result of the Member's correspondence.

2:6.52 ANAO noted other instances in which Ministerial decisions agreeing with a departmental recommendation that funding not be approved for a particular application were revisited, with the reasons for doing so not being documented.

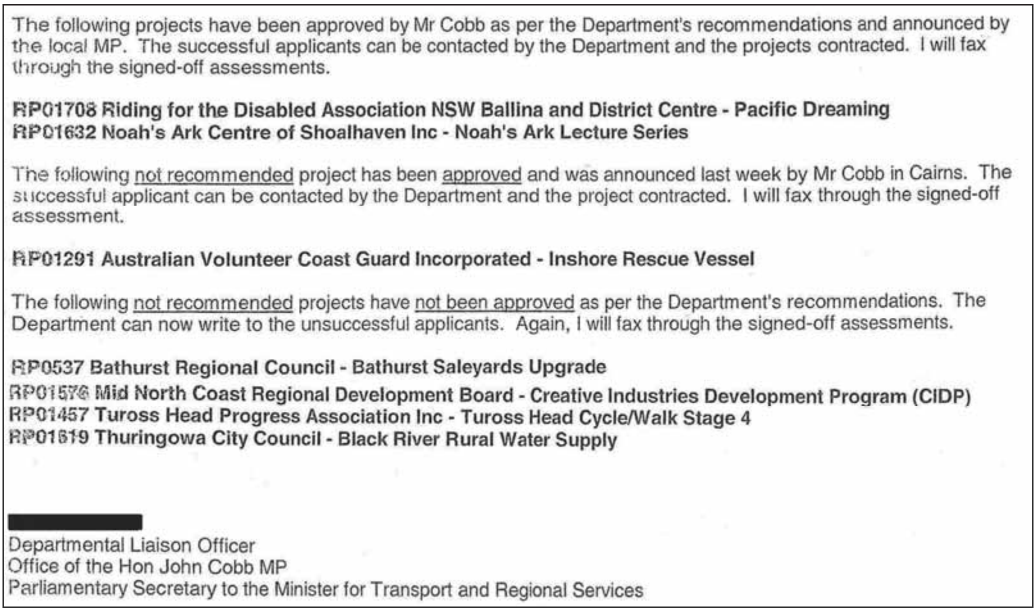
2:6.53 One example related to RP01457 Tuross Head Cycle/Walk—Stage 4 project in the Federal Electorate of Eden-Monaro. On 25 October 2004, the Tuross Head Progress Association Inc submitted a Regional Partnerships application which sought funding of $53 430 (plus GST). On 31 March 2005, DOTARS submitted its assessment of the application to the then Parliamentary Secretary, as part of a package of 11 projects, of which five were recommended and six, including RP01457, were not recommended.

2:6.54 The department recommended that funding not be approved for that project on the basis that the application did not satisfy the partnerships and support assessment criterion, due to the absence of a State Government contribution, and the project being viewed as an attempt at cost shifting. On 14 April 2005, the then Parliamentary Secretary signed the assessment agreeing with the department's recommendation that funding not be approved.

2:6.55 On 27 April 2005, the Departmental Liaison Officer to the Parliamentary Secretary's Office advised the department that RP01457 Tuross Head Cycle/Walk—Stage 4 had been not approved, as recommended by the department, and that the unsuccessful applicant could be advised. Included in the same package of projects was RP01291 Inshore Rescue Vehicle, in respect of which the then Parliamentary Secretary had, also on 14 April 2005, disagreed with the department's recommendation that funding not be approved. Figure 2:6.1 sets out the advice provided to the department in relation to seven of the projects included in Package 91.

Figure 2:6.1

Advice to the department from the then Parliamentary Secretary's Office that RP01457 was not approved, as recommended



The following projects have been approved by Mr Cobb as per the Department's recommendations and announced by the local MP. The successful applicants can be contacted by the Department and the projects contracted. I will fax through the signed-off assessments.

RP01708 Riding for the Disabled Association NSW Ballina and District Centre - Pacific Dreaming
RP01632 Noah's Ark Centre of Shoalhaven Inc - Noah's Ark Lecture Series

The following not recommended project has been approved and was announced last week by Mr Cobb in Cairns. The successful applicant can be contacted by the Department and the project contracted. I will fax through the signed-off assessment.

RP01291 Australian Volunteer Coast Guard Incorporated - Inshore Rescue Vessel

The following not recommended projects have not been approved as per the Department's recommendations. The Department can now write to the unsuccessful applicants. Again, I will fax through the signed-off assessments.

RP0537 Bathurst Regional Council - Bathurst Saleyards Upgrade
RP01576 Mid North Coast Regional Development Board - Creative Industries Development Program (CIDP)
RP01457 Tuross Head Progress Association Inc - Tuross Head Cycle/Walk Stage 4
RP01619 Thuringowa City Council - Black River Rural Water Supply

[redacted]
Departmental Liaison Officer
Office of the Hon John Cobb MP
Parliamentary Secretary to the Minister for Transport and Regional Services

Source: Email dated 27 April 2005 from Departmental Liaison Officer to the Office of the then Parliamentary Secretary advising the department of the Parliamentary Secretary's decision to not approve funding for RP01457 Tuross Head—Cycle/Walk Stage 4. [*Name removed by ANAO*]

2:6.56 However, on 28 April 2005, the Departmental Liaison Officer advised DOTARS that:

> I have been asked to ask the Dept to hold off advising the Tuross Head Progress Association Inc that they have been unsuccessful with their "Tuross Head Cycle/Walk Stage 4" project. Can you hold off please until further notice? [*Emphasis as per original*]

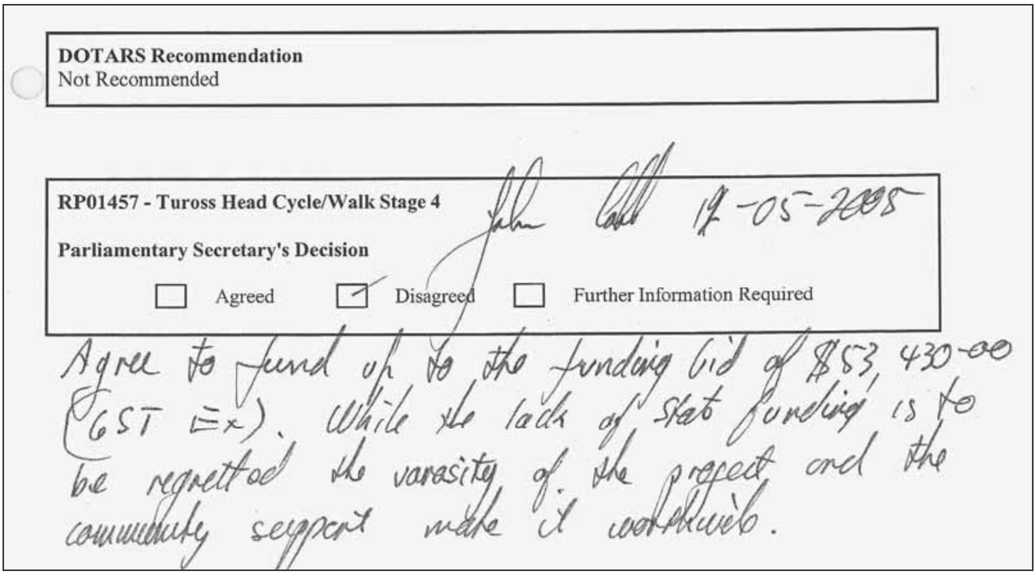
2:6.57 The reason for this request was not recorded. On 12 May 2005, the then Parliamentary Secretary signed a fresh version of the assessment for this project, this time disagreeing with the department and, instead, approving the funding. As Figure 2:6.2 shows, in approving the application, the then Parliamentary Secretary made no reference to, and did not formally rescind, the earlier decision to not approve funding. Nor did the then Parliamentary Secretary record:

- the reason for revisiting his earlier decision to not approve funding, as advised to the department; or

- any additional inquiries that might have been undertaken in order to now be satisfied that the expenditure would make efficient and effective use of the public money and be in accordance with the Programme eligibility criteria.

Figure 2:6.2

Parliamentary Secretary's approval of RP01457 – 12 May 2005



DOTARS Recommendation
Not Recommended

RP01457 - Tuross Head Cycle/Walk Stage 4

John Cobb 12-05-2005

Parliamentary Secretary's Decision

☐ Agreed ☑ Disagreed ☐ Further Information Required

Agree to fund up to the funding bid of $53,430-00 (GST Ex). While the lack of State funding is to be regretted the varasity of the project and the community support make it worthwhile.

Source: DOTARS' record of the then Parliamentary Secretary's approval of funding for RP01457 Tuross Head Cycle/Walk Stage 4.

2:6.58 On 19 May 2005, the Departmental Liaison Officer advised the department that:

> The following project has been approved by Mr Cobb and the applicants advised. The successful applicant can be contacted by the Department and the project contracted. I will fax through the signed-off assessment.
>
> RP01457 Tuross Head Progress Association Inc—Tuross Head Cycle/Walk Stage 4

2:6.59 Despite this advice being a later entry in the same email trail as the original advice set out in Figure 2:6.1, it made no reference to the earlier decision.

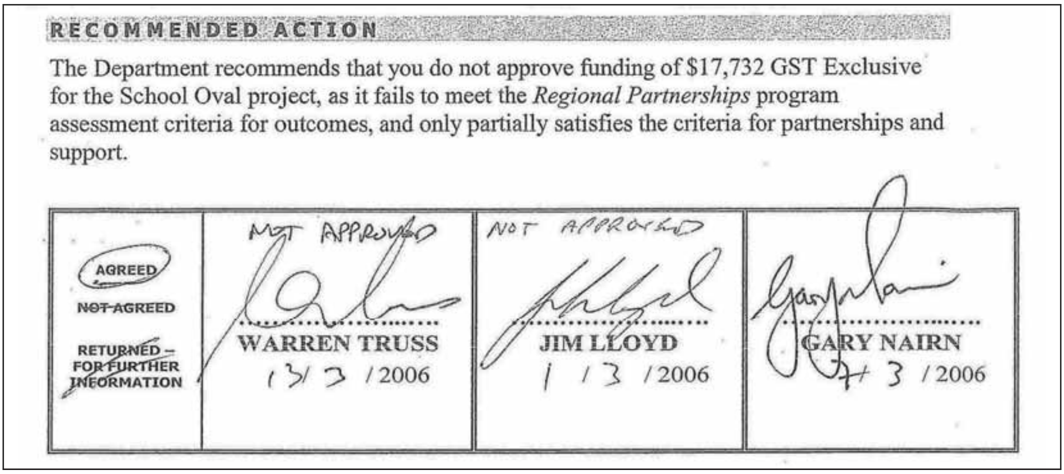
2:6.60 Another example where the deliberations that led to the revision of a Ministerial decision to not approve funding for a 'not recommended' project were not documented was RP02269 School Oval. That application sought Regional Partnerships funding of $17 732 towards the cost of refurbishing the school oval at St Francis Catholic primary school in Hughenden, located in the electorate of Kennedy in Far North Queenslan. On 10 February 2006, DOTARS submitted its assessment to the Ministerial Committee recommending that funding not be approved on the basis the application did not satisfy the outcomes criterion and only partially satisfied partnerships and support.[278] Advisers to each member of the Ministerial Committee prepared advice agreeing that the application should not be approved due to cost shifting, with the Adviser to Minister Truss commenting:

> It seems to have taken the department a long while to complete this assessment particularly when the rationale for rejection seems straightforward.

2:6.61 Between 1 March and 13 March 2006, each member of the Committee signed the Minute covering the department's assessment, with each agreeing that the application was not approved for funding (see Figure 2:6.3).

Figure 2:6.3

Ministerial Committee agreement to departmental recommendation that funding not be approved for RP02269



RECOMMENDED ACTION

The Department recommends that you do not approve funding of $17,732 GST Exclusive for the School Oval project, as it fails to meet the *Regional Partnerships* program assessment criteria for outcomes, and only partially satisfies the criteria for partnerships and support.

[✓ AGREED] ~~NOT AGREED~~ ~~RETURNED – FOR FURTHER INFORMATION~~	NOT APPROVED WARREN TRUSS 13/3/2006	NOT APPROVED JIM LLOYD 1/3/2006	GARY NAIRN 7/3/2006

Source: Ministerial Committee decision to not approve RP02269 School Oval, as returned to DOTARS.

2:6.62 This decision was taken in accordance with the normal practice of the Ministerial Committee, in which decisions on the majority of applications are taken out of session and applications are only referred to a formal meeting where a consensus has not been reached. A meeting of the Ministerial

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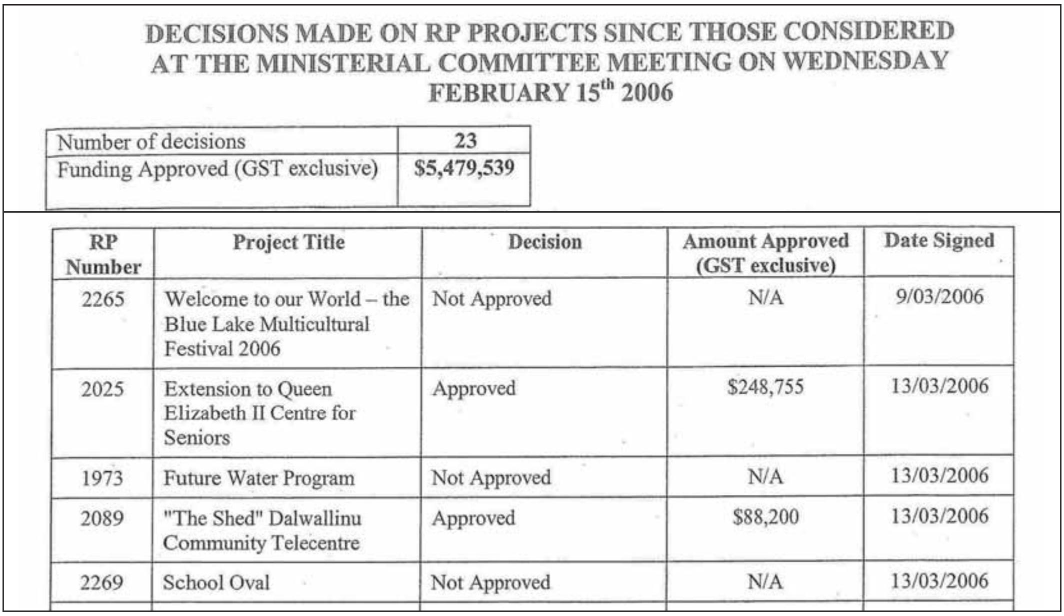
[278] This was due to: the outcomes being considered weak; alternative sporting facilities available in town were already being used by the students; there was no commitment that the refurbished oval would be shared with the wider community; the application could be considered cost shifting; Regional Partnerships was not the most appropriate Australian Government programme; and the low contribution from Catholic Education and no State Government funding.

Committee was held on 29 March 2006. The agenda papers for the meeting included, for noting, a list of out-of-session decisions made since the previous meeting, including the non-approval of the School Oval project (see Figure 2:6.4).

Figure 2:6.4

Agenda item for 29 March 2006 Ministerial Committee meeting



DECISIONS MADE ON RP PROJECTS SINCE THOSE CONSIDERED AT THE MINISTERIAL COMMITTEE MEETING ON WEDNESDAY FEBRUARY 15th 2006

Number of decisions	23
Funding Approved (GST exclusive)	**$5,479,539**

RP Number	Project Title	Decision	Amount Approved (GST exclusive)	Date Signed
2265	Welcome to our World – the Blue Lake Multicultural Festival 2006	Not Approved	N/A	9/03/2006
2025	Extension to Queen Elizabeth II Centre for Seniors	Approved	$248,755	13/03/2006
1973	Future Water Program	Not Approved	N/A	13/03/2006
2089	"The Shed" Dalwallinu Community Telecentre	Approved	$88,200	13/03/2006
2269	School Oval	Not Approved	N/A	13/03/2006

Source: Extracts from Agenda Item 2(i) for 29 March 2006 meeting of the Ministerial Committee: 'Progress Report since previous Committee meeting—Projects approved since 15 February 2006'.

2:6.63 Between 25 May and 1 June 2006, the members of the Ministerial Committee signed a Minute confirming the decisions taken at its 29 March 2006 meeting. The Minute recorded that a decision had been taken to approve funding for the School Oval project. Each Minister signed a fresh version of the signature block from the original departmental Minute on this application[279] on 29 March 2006, this time approving funding (see Figure 2:6.5).[280]

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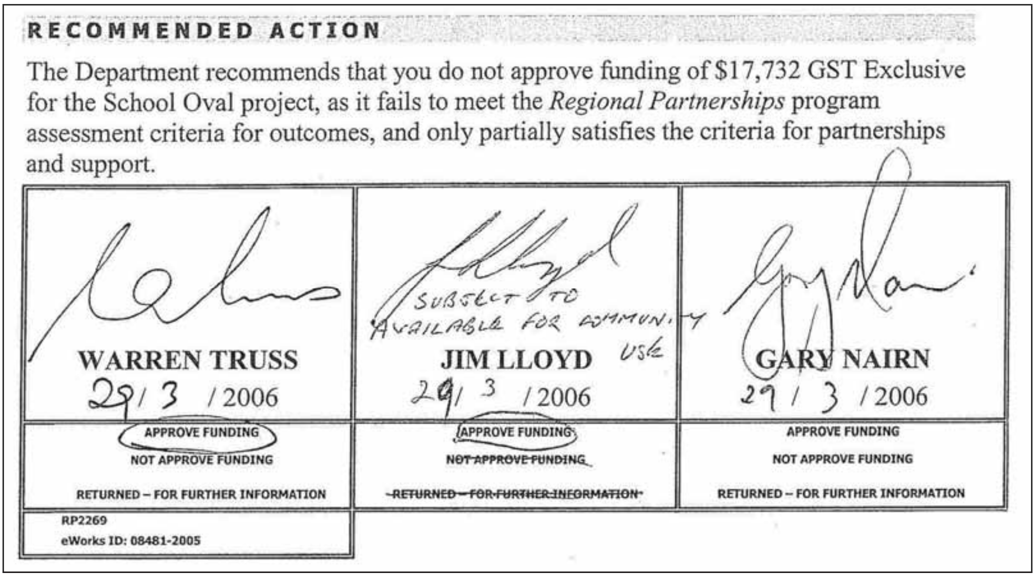
[279] This was prepared using a revised template that had subsequently been introduced by the department.

[280] Minister Lloyd recorded that his approval was 'subject to availability for community use.' However, none of the letters advising of funding approval signed on 29 March 2006 by Minister Truss identified the funding condition.

Figure 2:6.5

Record of decision to approve funding for RP02269



RECOMMENDED ACTION

The Department recommends that you do not approve funding of $17,732 GST Exclusive for the School Oval project, as it fails to meet the *Regional Partnerships* program assessment criteria for outcomes, and only partially satisfies the criteria for partnerships and support.

WARREN TRUSS 29/3/2006	SUBJECT TO AVAILABLE FOR COMMUNITY USE JIM LLOYD 29/3/2006	GARY NAIRN 29/3/2006
[✓ APPROVE FUNDING] NOT APPROVE FUNDING RETURNED – FOR FURTHER INFORMATION	[✓ APPROVE FUNDING] ~~NOT APPROVE FUNDING~~ ~~RETURNED – FOR FURTHER INFORMATION~~	APPROVE FUNDING NOT APPROVE FUNDING RETURNED – FOR FURTHER INFORMATION
RP2269 eWorks ID: 08481-2005		

Source: Record of Ministerial Committee decision to approve funding for RP02269 School Oval.

2:6.64 Neither the Committee meeting Minute nor the project assessment Minute acknowledged that there had been an earlier decision taken by the Ministerial Committee to not approve funding which was now overturned. Nor did the records of the funding approval identify:

- the reason for re-considering the application, which was not included in the list of projects identified in the meeting agenda as requiring discussion at the 29 March meeting[281]; or
- what, if any, additional information or other considerations the Ministers had based their revised decision upon.[282]

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[281] In this respect, the 29 March 2006 letter from Minister Truss to the Chair of the Far North Queensland ACC advising of the funding approval included reference to the Minister having received email correspondence from the ACC Chair in relation to the project on 17 March 2006. The documentation relating to approval of funding for this project held by the department did not include a copy of the email. Comments included in the Minister's letter suggest that the email had, in part, referred to delays in the decision-making process for the project. There were two further applications considered and approved at the 29 March 2006 meeting that were also not listed in the agenda.

[282] A variation seeking an additional $1 174 in Regional Partnerships funding for the School Oval project was approved by the Ministerial Committee on 8 June 2006. The variation was sought because the applicant was not GST registered, but the original approved amount for programme funding was based on a GST exclusive amount.

2:6.65 Other examples noted by ANAO in which the decision-making process departed from the documented procedures for an unsuccessful application included:

- RP00293 Boundary Bend Development, in respect of which DOTARS' assessment recommending that funding not be approved was provided to the then Parliamentary Secretary on 5 May 2004. On 6 May 2004, the Member for Mallee wrote to the then Parliamentary Secretary offering strong support for the proposal and advising that he would appreciate the opportunity to discuss the project. On 17 May 2004, the then Parliamentary Secretary agreed with the department's recommendation that funding not be approved. The decision was returned to the department for administration. However, instead of following the normal process for advising an unsuccessful applicant of the decision, the department instigated discussions with the applicant regarding revision of the application in order to overcome the cost-shifting and other concerns identified in the departmental assessment. On 2 June 2004, the Regional Office advised the Departmental Liaison Officer to the Office of the then Parliamentary Secretary as follows:

  > Spoke to the proponent in confidence this arvo re the [*Boundary Bend*] project. They are willing to consider amending their proposal…

  DOTARS' records in relation to this project did not record the reason for taking this approach, rather than following the normal process of advising the applicant of the non-approval and inviting it to either submit a new application or formally request a review. On 7 June 2004, DOTARS proposed a revised budget and partnership arrangement for the project, which the applicant agreed to. DOTARS then amended the funding application and re-commenced its assessment, using the same Regional Partnerships project reference number as had applied to the original, unsuccessful application. On 22 June 2004, the then Parliamentary Secretary agreed to the department's recommendation that she approve funding of $19 100 (plus GST) for the revised application; and

- RP00634 North West Dive Safaris, for which the 2 March 2004 application was rejected at the pre-assessment stage as the department considered that more appropriate funding would be the Australian Tourism Development Program (ATDP). On 2 April 2004, the Member for Kalgoorlie wrote to the then Parliamentary Secretary requesting that the application be re-considered. The Parliamentary Secretary's 12 May 2004 response advised the Member that, in addition to the project being possibly more appropriately funded under ATDP, other sections of the application required further development, and suggested that the applicant work with its local ACC to develop a more robust application. A revised application was not submitted through TRAX. Instead, a departmental assessment of the original application recommending that funding be approved was submitted to the then Parliamentary Secretary on 5 August 2004. The departmental assessment noted the earlier events in relation to this application and advised that, as the ATDP programme no longer existed and its replacement had a minimum funding bid of $25 000, the department considered Regional Partnerships to be an appropriate funding partner. However, the department did not identify why it had been decided that the applicant should not be required to re-submit a fresh application, given the earlier formal advice rejecting the application. The then Parliamentary Secretary approved funding of $11 749 (plus GST) on 9 August 2004.

Recommendation No.8

2:6.66 ANAO *recommends* that, in order to enhance the transparency and accountability of the Ministerial consideration of Regional Partnerships applications, the Department of Transport and Regional Services develop procedures to ensure that:

(a) any communications of significance received by the department from the Ministerial decision-maker or his or her Office in respect to an application subsequent to the department providing the Minister(s) with its assessment and funding recommendation are appropriately recorded; and

(b) where a signed Ministerial funding decision is re-considered:

  (i) the circumstances that gave rise to that re-consideration are documented; and

  (ii) where a previously recorded funding decision is changed, the departmental documentation provides for the Ministerial decision-maker(s) to identify the basis on which the revised decision was made, including any additional inquiries undertaken, or caused to be undertaken.

DOTARS response

2:6.67 Agreed.

Conflict of interest procedures

2:6.68 An important consideration in the design of an appropriately transparent and accountable grant programme is the processes that are in place to identify and deal with any potential conflicts of interest. In this respect, the ANAO Administration of Grants Better Practice Guide advises:

> A conflict of interest could arise where decision makers or officials involved in grant programme administration have a direct or indirect interest in the selection of a particular project for funding. Actual or perceived conflicts of interest can be potentially damaging to a funding organisation and its programs. Ensuring that relevant guidelines clearly outline what constitutes a conflict of interest, and that procedures are in place for staff to declare their interests can mitigate this risk.[283]

2:6.69 As all decisions as to whether to award a grant under the Regional Partnerships Programme are made by Ministers, adequate processes should be in place to deal with the potential conflict of interest where an application relates to a project to be undertaken in the relevant Minister's own electorate.

Process prior to Ministerial Committee

2:6.70 Between the commencement of the Regional Partnerships Programme on 1 July 2003 and the establishment of the Ministerial Committee on 30 November 2005, grant applications relating to projects located in the electorate of the Minister for Transport and Regional Services or the Parliamentary Secretary to the Minister were referred to another Ministerial decision-maker within the portfolio for decision.

2:6.71 However, as was discussed by the Senate Committee in the report of its inquiry, all departmental Minutes providing Regional Partnerships applications for Ministerial consideration were copied to the then Minister, including those relating to projects located in his electorate.[284] Similarly, Minutes relating to projects located in the electorate of both Parliamentary Secretaries responsible for the Regional Partnerships Programme at various

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[283] ANAO Better Practice Guide—Administration of Grants, op. cit., paragraph 2.67, p. 24.

[284] Senate Committee Report, op. cit., pp. 125, 129 and 208.

times were referred to the then Minister for decision, but also copied to the Parliamentary Secretary.[285]

2:6.72 Between 1 July 2003 and 30 November 2005, there were two Ministerial decisions relating to the approval of funding in the electorate of a Regional Partnerships Ministerial decision-maker (during the time the Member occupied that position) that either differed from the departmental recommendation or were made in the absence of a departmental assessment.

2:6.73 Both were located in the electorate of Gwydir, held by the then Minister for Transport and Regional Services. One decision related to RP01689 New Services for CTC@Warialda, which the department had recommended for partial funding, but the then Parliamentary Secretary approved for full funding of $5 525 on 11 May 2005, on the basis that this would match the State government contribution.

2:6.74 The other instance related to the approval of Regional Partnerships funding of $1.1 million (plus GST) for RP01207 Gunnedah Grains to Ethanol project (submitted by Primary Energy Pty Ltd) by the then Minister for Local Government, Territories and Roads, Minister Campbell, through a letter to the department dated 5 July 2004. As discussed in the Volume 3 of the audit report, the Minister provided that approval based on written advice and a draft letter to the department received from the Chief of Staff to the then Minister for Transport and Regional Services, Minister Anderson, prior to any departmental assessment of the project against the Regional Partnerships Guidelines being undertaken. The Chief of Staff's 30 June 2004 note to Minister Campbell had been copied to Minister Anderson.

2:6.75 As noted, it had been the practice within the Regional Partnerships Programme that a Minister would not participate in the consideration of applications for projects located in his or her own electorate. It is reasonable that this principle be extended to apply not only to a Minister personally, but also to exclude the involvement of a Minister's staff in any processes relating to such applications after they have been submitted.

2:6.76 As was discussed by the Senate Committee in the report of its inquiry[286], the then Minister's Chief of Staff also played a role in the

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[285] Between 6 July 2005 and 29 November 2005, the Ministerial decision-maker for all Regional Partnerships applications was the then Minister for Transport and Regional Services, the Hon Warren Truss MP. No projects located in Minister Truss' electorate were brought forward for funding decisions during that period.

department's subsequent preparation of an assessment in relation to the project. This led to the department withdrawing its initial recommendation to the newly appointed Minister for Local Government, Territories and Roads that funding not be approved and providing replacement advice recommending partial funding through application of the SONA procedures (see discussion in Chapter 5 in this part of the audit report).

2:6.77 In the course of the Senate Committee's inquiry, DOTARS advised that this had occurred following review of the department's original Minute to the Minister by the then Acting Secretary. The Senate Committee was further advised that this review had been prompted by a telephone call from Minister Anderson's Chief of Staff who had advised that he did not think the Minute had accurately reflected Minister Campbell's letter.[287] However, DOTARS' records in relation to this project did not document the communication it had received from the Chief of Staff or the subsequent deliberations within the department that led to it changing its funding recommendation.

2:6.78 The then Minister disagreed with the department's revised recommendation for partial funding and, on 2 August 2004, confirmed the previous Minister's earlier decision to approve full funding of $1.1 million (plus GST) for the project.

2:6.79 In its October 2005 report, the Senate Committee concluded:

> The Committee believes that stronger measures need to be established to ensure that ministers remain at arm's length from decisions on applications for projects that are located in their electorates. This is essential for reducing the risk of a conflict of interest in funding decisions. The case of Primary Energy…involved an application from the portfolio minister's electorate. Although the department followed established practice by referring the case to another minister as the decision maker, one of the portfolio minister's advisers intervened in the process and caused the department to alter its advice to the decision maker. Regardless of whether the adviser's intervention was appropriate, this example reveals that the current 'practice' is inadequate and, as this instance demonstrates, leaves the process open to perceptions of a conflict of interest and partisanship.
>
> The Committee considers that it should be mandatory that ministers are kept at arm's length from decisions on applications based in their own electorates.

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[286] Senate Committee Report, op. cit., pp. 119–136.

[287] ibid., pp. 126–127.

> In such cases, ministers and their offices should be quarantined from the decision making process. In instances (such as the Primary Energy case) involving applications from the senior portfolio minister's electorate, the practice of copying departmental briefings to the junior minister or parliamentary secretary to the portfolio minister should be suspended until *after* a decision has been made. This should be formal policy.
>
> The Committee is also deeply concerned by the nature of the ministerial intervention in the department's advice regarding the Primary Energy application…It is one thing for ministers and their staff to direct departments to implement government policy; it is quite another for ministers and their staff to direct departments to alter or tailor departmental advice to the government on the assessment and approval of grants. The Committee considers intervention of the kind demonstrated in the Primary Energy case to be inappropriate and antithetical to the principle of the public service providing frank and impartial advice to ministers.[288]

2:6.80 The Senate Committee recommended that:

> - it become formal policy that ministers and their staff are kept strictly at arm's length from decisions, including all relevant departmental advice, on applications from their own electorates. The portfolio minister and his or her staff should not be included in the circulation of departmental advice on applications for projects based in the minister's electorate (Recommendation 21); and
> - Ministers and Parliamentary Secretaries, and their staff, should be prohibited from intervening in the assessment of grants (Recommendation 22).

2:6.81 The November 2006 Government Response to the Senate Committee's report responded to those recommendations as follows:

- Recommendation 21:

> Agree in part. The Government announced on 15 November 2005 that funding approval will be subject to decision by a new Committee comprising the Minister for Transport and Regional Services, the Minister for Local Government, Territories and Roads, and the Special Minister of State.
>
> The Committee has adopted the practice that, where there is consideration of a project in the electorate of one of the Ministers, the Minister in question does not take part in the decision-making process.

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[288] ibid., pp. 208–209.

However, the Government considers that Ministers should retain the normal capacity of Members and Senators to make representations on behalf of their constituents in respect of an application for funding.

- Recommendation 22:

  Agree in principle. No evidence of inappropriate interference has been identified by the Inquiry.

Ministerial Committee process

2:6.82 The Minute confirming decisions taken at the Ministerial Committee's first meeting on 30 November 2005 recorded that the Committee had decided that, to avoid a possible conflict of interest, if a project is in a Committee member's electorate they will not take part in the decision. As discussed, under the Ministerial Committee, most decisions are taken out-of-session, with projects being referred to a formal meeting of the Committee only when there is not a consensus as to the funding decision.

2:6.83 Each project is normally submitted for decision by the Ministerial Committee under cover of an individual Minute which provides a signature block for each Minister to sign, indicating whether he approves the project for funding or not, or wishes to refer it back to the department for further information or to a formal meeting of the Committee.

2:6.84 Between 30 November 2005 and 30 June 2006, the Ministerial Committee made funding decisions in relation to 22 projects located in the electorate of a Committee member. In most cases, the relevant Minute advised that the project was located in the relevant Minister's electorate and only the signatures of the other two Ministers were required. Where this had not occurred, the relevant signature block had been crossed out by either the department or one of the Minister's Offices. However, in a continuation of the practice that the Senate Committee recommended be ceased, in the period examined by ANAO, in all but one instance the Minute listed the Minister in whose electorate the project was located as a recipient, either as an addressee or a copy recipient.[289]

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[289] In relation to two further projects, the departmental Minute had been prepared prior to the establishment of the Ministerial Committee and, therefore, had been addressed to the then Minister for Transport and Regional Services and copied to the Minister for Local Government, Territories and Roads as the portfolio Ministers.

2:6.85 This practice was reflected in the November 2006 Government Response to the Senate Committee's recommendation, which stated that the Government considered that Ministers should retain the normal capacity of Members and Senators to make representations on behalf of their constituents in respect of an application for funding. This approach was also reflected, for example, in the 8 December 2005 Minute under which the department submitted the election commitment for the Restoration of Tathra Wharf for Ministerial Committee approval, which advised the Committee that:

> It should be noted that this project is in the Hon Gary Nairn's MP electorate and under agreed operational arrangements he could provide comment and note whether he supported the project, but record the conflict of interest and not participate in decision making.[290]

2:6.86 In this respect, ANAO notes that Ministerial decision-makers under the Regional Partnerships Programme have always retained the capacity to provide support for projects located in their electorates in the same manner as is available to other Members of Parliament, including through the provision of letters of support. However, it is not usual for Members of Parliament to have access to the departmental assessment and funding recommendation in relation to an application. The access individual Members of Parliament have to the members of the Ministerial Committee or their Offices for the purpose of expressing additional support for an application will vary, but being a member of the Committee would be advantageous in this respect.

Out of session decisions

2:6.87 Between 30 November 2005 and 30 June 2006, the Ministerial Committee made out-of-session funding decisions in relation to 14 projects located in the electorate of a Committee member (11 in Minister Nairn's electorate of Eden-Monaro, two in Minister Lloyd's electorate of Robertson and one in Minister Truss' electorate of Wide Bay). Of those, 12 were approved for funding, each of which had been recommended by the department.

In-session decisions

2:6.88 The Committee met on seven occasions in the period to 30 June 2006, with primary funding decisions being taken in relation to 107 applications (excluding election commitment projects), 44 (41 per cent) of which had been

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[290] In that case, the Minute was returned to the department with approval of funding from the other two members of the Committee, subject to specified conditions. There was no record made of whether Mr Nairn provided comment, or whether he supported the project.

not recommended by the department. Of the projects not recommended, 15 (34 per cent) were approved for funding.[291]

2:6.89 The applications considered at those meetings included six located in Minister Nairn's electorate and two in Minster Lloyd's electorate. Consistent with the practice of providing Ministers with the departmental assessments and funding recommendations for all projects, the agenda papers circulated for each Ministerial Committee meeting made no provision for projects in Ministers' own electorates to be excluded from the papers provided to that Minister.

2:6.90 Where individual project Minutes were signed to record the funding decision taken at the meeting, the Minister in whose electorate the project was located did not sign the project Minute. However, all members of the Committee signed the Minutes confirming decisions taken at each meeting. There was considerable variability in the extent to which those meeting Minutes recorded the conflict of interest in relation to projects in a Minister's electorate and the measures taken to manage it in the context of the Committee's deliberations. The relevant projects, funding decisions, the department's recommendation, and the record made in the meeting record in respect to the management of the conflict of interest are set out in Table 2:6.1.

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[291] The remaining five not recommended projects approved for funding by the Ministerial Committee between November 2005 and June 2006 were approved out-of-session.

Table 2:6.1

Conflict of interest management measures recorded in relation to funding decisions taken at Ministerial Committee meetings held between 30 November 2005 and 21 June 2006

Project	Meeting date	Departmental Rec.	Funding decision	Funding approved (GST ex)	Recorded management of conflict of interest	
					Covering Minute	Attachment recording each funding decision taken at the meeting
Projects in electorate of Eden-Monaro:						
Jindabyne Terrain Park Construction	30 Nov 05	Recommended subject to confirmation of partner funding	Approved	$80 000	The Minute covering project decisions taken at the Committee's first meeting on 30 Nov 05 confirmed the decision by the Committee that, to avoid a possible conflict of interest, if a project is in a Committee member's electorate they will not take part in the decision.	'In accordance with the agreed procedures, the Parliamentary Secretary, the Hon Gary Nairn MP did not take part in this decision as the project is in the electorate of Eden-Monaro.'
"Platypus Country" Community Based Development	30 Nov 05	Not Recommended	Not Approved	$0		No record made.
Eden Cruise Ships Implementation Strategy	30 Nov 05	Not Recommended	Deferred^{A}	$0^{A}		No record made.
	15 Feb 06	Not Recommended	Approved	$18 250	No record made.	No record made.
BT & R Recycling	29 Mar 06	Recommended	Approved	$271 500	No record made.	'*in the electorate of the Special Minister of State.'

Project	Meeting date	Departmental Rec.	Funding decision	Funding approved (GST ex)	Recorded management of conflict of interest	
					Covering Minute	Attachment recording each funding decision taken at the meeting
Eden Community Access Centre Inc IT Upgrade	10 May 06	Not Recommended	Not Approved	$0	No record made.	No record made.
Make it Moruya (variation)[B]	21 Jun 06	Recommended	Approved	$22 631	No record made.	No record made.
Tulgeen Group Expansion Project	21 Jun 06	Not Recommended	Approved	$463 646	No record made.	No record made.
Projects in the electorate of Robertson:						
The Central Coast Cycling Guide	15 Feb 06	Not Recommended	Approved	$7 500	No record made.	No record made.
Terrigal Trojans Rugby Club	12 April 06	Not Recommended	Approved	$245 046	No record made.	No record made.

Notes:

[A] The Committee deferred any decision on this application at the 30 November 2005 meeting, and subsequently approved funding at its 15 February 2006 (see further discussion of this project at paragraphs 2:6.94 to 2:6.101)

[B] This project had previously been approved for funding of $22 631 on 20 January 2006. Minister Nairn did not sign the project Minute approving the funding. A Funding Agreement was signed on 6 March 2006. This approval represented the Committee agreeing to the use of the Regional Partnerships funding for a different project, as the originally approved activities had been completed in the last quarter of 2005 and would, therefore, represent retrospective funding which is ineligible.

Source: ANAO analysis of Minutes signed by each member of the Ministerial Committee confirming the decisions taken at Committee meetings held between 30 November 2005 and 21 June 2006.

2:6.91 As noted, at its first meeting the Ministerial Committee agreed that if a project was located in a Committee member's electorate, that Minister would not take part in the decision. This represented the Ministers agreeing to a 'constitution' or business rule. Ordinarily, the minutes of a meeting of a committee or board will record each instance of a conflict or potential conflict of interest and the measures taken to manage it, including the extent of compliance with such a business rule on each relevant occasion.

2:6.92 As Table 2:6.1 illustrates, that was not the approach adopted in respect to Ministerial Committee meetings held during the period examined by ANAO. There was internal inconsistency in the recording of such matters in the record of decisions taken at the Committee's 30 November 2005 meeting, with the management of the conflict or potential conflict of interest being noted against only one of the three relevant projects considered at that meeting. The location of a project in a Committee member's electorate was noted in respect to one further relevant project, considered at the Committee's 29 March 2006 meeting, but the measures taken to manage the potential conflict of interest were not recorded.

2:6.93 The records of Ministerial Committee meetings did not include any record of a conflict or potential conflict of interest or its management in relation to the remaining projects located in a Minister's electorate on which funding decisions were taken at a formal Committee meeting. This included four approved projects that the department had recommended not be approved for funding (see Table 2:6.1). The Ministerial Committee did not record a reason for the approval of any of those four projects.

2:6.94 For example, at its first meeting on 30 November 2005, the Ministerial Committee deferred consideration of RP02163 Eden Cruise Ships Implementation Strategy, which sought Regional Partnerships funding of $18 250 (plus GST) toward the cost of materials, equipment and entertainment to create a welcoming 'carnival' atmosphere when cruise ships docked at Eden on the NSW Sapphire Coast. The applicant, Bega Valley Shire Council, had previously received Regional Assistance Programme funding for a project aimed at marketing Eden as a tourism destination for cruise ships and $25 000 under Regional Partnerships for a project to produce a CD showcasing the region's tourism assets for international marketing.

2:6.95 The cruise ships to be welcomed under the project were due to arrive between 7 November 2005 and March 2006. DOTARS' 21 October 2005 assessment recommended that funding not be approved due to:

> lack of value for money, indirect outcomes that are difficult to demonstrate, and concerns regarding retrospectivity, partnership support and project viability.
>
> …This project does not represent value for money to the Australian Government. Increased tourism and future job creation through increased economic activity are fundamentally the same outcomes DOTARS supported in the former Regional Assistance Programme project in 2001/02 and the current Regional Partnerships 'International Marketing CD for the Sapphire Coast' project, funded in 2005/06. Total funding for these two projects is almost $60 000. While the Regional Assistance Programme project was very successful, it was difficult to quantify any job outcomes and we are yet to see any quantifiable outcomes from the current Regional Partnerships project. There also appears to be a continuous flavour from this applicant to seek funding for tourism/marketing activities that are generally difficult to demonstrate direct outcomes.
>
> …In the applicant's former Regional Assistance Programme application, they indicated the project would be sustained via an additional budget allocation to advance the project to the next level. It appears this has not happened to the extent it was initially anticipated.
>
> There are also concerns over retrospectivity as it is unlikely that Regional Partnerships funding would be approved and contracted in time for the promotional material to be produced prior to the first ship docking in November.

2:6.96 As noted, the Ministerial Committee deferred consideration of the application, requesting that the department provide further advice on the commitments made by the applicant in respect to the earlier grants. On 13 February 2006, DOTARS provided further information to the Committee and again recommended that the application not be approved, advising:

> The Department considers that the business and marketing plan for the RAP funded Garden of Eden project incorporated the "carnival" initiative. The current *Regional Partnerships* Eden Cruise Ships Implementation Strategy application therefore appears to be seeking funds for the element of the earlier project which was formally agreed to be funded by Sapphire Coast Tourism.

2:6.97 The departmental Minute was addressed to the 'Regional Partnerships Ministerial Committee'. It noted that only the signatures of the two other member of the Committee were required as the project fell within Minister Nairn's electorate. The departmental assessment and Minute providing further information were included in the agenda papers circulated to all Ministers for the Committee's 15 February 2006 meeting.

2:6.98 The Ministerial Committee further considered the project at its 15 February 2006 meeting and approved funding of $18 250 (plus GST). No reason for approval was recorded on either the Minute confirming decisions taken at the meeting, which was signed by all three Ministers, or the project Minute, which did not include provision for Minister Nairn's signature.[292] Neither Minute recorded how the potential conflict of interest had been managed in the conduct of discussions at the Ministerial Committee meeting.[293]

2:6.99 This approval was given despite most of the ships to be welcomed through the project having already docked and departed, with the last being due in March 2006. Local media coverage had highlighted the carnival atmosphere generated to welcome each ship. The Ministerial Committee did not identify the basis on which it had determined that the project represented value for money or was eligible under the Guidelines, which preclude funding for retrospective costs. The retrospective nature of the project was confirmed in advice provided to the Committee by DOTARS on 10 May 2006 that:

> During funding agreement negotiations with the proponent, the Bega Valley Shire Council, the Department was informed that some of these activities were carried out in November 2005 with further marketing and promotion occurring throughout the cruise season from November 2005 to March 2006. The Bega Valley Shire Council confirmed that they spent most of their co-funding contributions of $34 840, with only $7 000 remaining, as they did not wan to miss the opportunity of capturing the strong tourist trade during the 2005-06 cruise season while initiating the development of resources to help make this project sustainable for future seasons.

2:6.100 Unlike the approach taken in relation to other cases in which retrospectivity issues were identified subsequent to funding approval, DOTARS did not recommend that the funding be rescinded. Instead, despite its earlier assessment that the outcomes claimed were indirect, difficult to demonstrate and duplicated outcomes already funded, DOTARS now advised:

> The proponent's proposed total co-funding contribution can no longer be considered as a valid cash contribution for this project as $27 840 was spent prior to the Ministerial Committee's approval for funding. However, the remainder of $7 000 can still be considered as a valid cash contribution and

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[292] Minister Lloyd's signature on the project Minute was dated 15 June 2006, but this appears to be in error. Minister Truss's signature did not appear on the project Minute, with his signature block being annotated 'signed' and dated 1 March 2006.

[293] The approval was announced by the Member for Eden-Monaro on 9 March 2006.

> that portion already spent as an in-kind contribution. While *Regional Partnerships* program funding now forms 72 per cent of cash funding for the remainder of this project, much has been achieved with the applicant's cash contribution and the project outcomes are still valid and achievable.[294]

2:6.101 On 1 June and 20 June 2006 respectively, the two members of the Ministerial Committee that provided the original approval agreed to the Regional Partnerships funding being used to run a similar campaign for the 2006–07 cruise season, subject to the applicant confirming that any future funding would be sourced through its budget and the 'carnival' initiative being incorporated in Council's business and marketing plan. This was the same undertaking as had been given in respect to the 2001–02 Regional Assistance Programme project.

Changed procedures

2:6.102 In August 2007, ANAO advised DOTARS that it considered that the transparency and accountability for decisions taken at Ministerial Committee meetings in relation to projects located in a Committee member's electorate would be better served by the conflict or potential conflict of interest being explicitly recorded against each relevant project in the record of the meeting, and, on each occasion, the meeting record confirming that the Minister either did not participate in the discussion or was absent from the meeting for consideration of the particular project.

2:6.103 ANAO also observed that it would be prudent for Ministers to avoid any suggestion of a conflict of interest by agreeing to procedures, consistent with those proposed by the Senate Committee, to:

- suspend the practice of providing Ministers with the departmental assessments and funding recommendations in relation to projects located in their electorate; and
- record any discussions that may occur between one or more Ministers and/or their Offices in relation to individual applications.

2:6.104 On 11 September 2007, DOTARS advised the Ministerial Committee that the ANAO had:

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[294] The same wording was used by the department in submitting a variation in respect to a further project located in the electorate of Eden-Monaro, which was also seeking approval for the funding recipient to apply approved funds to a different purpose due to retrospectivity issues (see Table 2:6.1).

> suggested improvements in the procedures for Ministerial Committee meetings. The improvements include the following suggestions:
>
> - copies of Departmental assessments for projects in Committee Member's electorates not be forwarded to the Member concerned; and
> - the minutes for the Ministerial Committee meetings record when this situation has arisen.
>
> The Department recommends that the Ministerial Committee adopt the above suggestions in accordance with effective governance procedures.

2:6.105 The department recommended that the Ministerial Committee agree that:

- copies of the departmental assessment not be given to members of the Ministerial Committee when the project is in their electorate; and
- the minutes of the Ministerial Committee meetings will record when a Minister has abstained from the decision making process because the project is in their electorate.

2:6.106 Between 13 and 26 September 2007, the members of the Ministerial Committee indicated their agreement to the revised procedures.

Part 3: Partnerships and Support

3:1 Introduction to Partnerships and Support

This chapter outlines the importance of proposed financial and in-kind contributions from project partners to the administration of the Regional Partnerships Programme, and relevant recommendations from the Senate Committee report. It also provides an outline of the content of the chapters in this part of the report.

Background

3:1.1 Key directions identified in the Government's August 2001 *Stronger Regions, A Stronger Australia* Statement included a partnership approach between the community and government. Specifically, it was stated that:

> The Liberal-National Government has long recognised that strong regions are vital to the overall success of our nation and since coming to Government we have spent almost $30 billion on specific regional programmes. However this Statement confirms the new and better way—the partnership way—in which the Government will be working with regional communities into the future.[295]

3:1.2 The Regional Partnerships Programme is intended to give effect to the Government's policy as set out in the *Stronger Regions, A Stronger Australia* Statement.[296] The Regional Partnerships Programme Guidelines define a partner as being an individual or organisation that makes a financial and/or in-kind contribution to a project. The Programme Guidelines state that:

- applicants and their other project partners are expected to make a financial contribution to the project; and
- developing partnerships and securing funding support is a requirement for Regional Partnerships project funding.[297]

3:1.3 In this context, from the commencement of the Programme, one of the stated assessment criteria has been 'Partnerships and Support'.[298] The

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[295] The Hon John Anderson MP Deputy Prime Minister and Minister for Transport and Regional Services, *Stronger Regions, A Stronger Australia*, 29 August 2001, Canberra, Foreword.

[296] Senate Committee Report, op. cit., p. 17.

[297] DOTARS, Regional Partnerships Guidelines, July 2006, pp. iii and 11.

[298] Under the revised Programme Guidelines issued in July 2006, partnership funding and evidence of project support became separate assessment criteria, rather than being considered collectively, as was the case in the three years examined by ANAO to 30 June 2006.

importance of partnerships contributions has been reflected in the design and administration of the Programme. For example:

- the Regional Partnerships application forms state that it is mandatory for each applicant to provide details of their contribution (if any) to the project and the contributions from any project partners;
- the five versions of the Internal Procedures Manual that were issued between the commencement of the Programme and September 2005 (the version that was in place at the time of ANAO's audit fieldwork and until a revised Manual was implemented in July 2007) each included guidance on analysing applications against the partnerships and support criterion. There had been few changes to these procedures over the four years to July 2007;
- project assessments provided to Ministerial decision-makers have commonly including a rating for the strength of partnerships support (from weak to strong) as well as advice on whether the department considered the partnerships and support criterion to have been satisfied. In total, to 30 June 2006, 77 per cent of all projects that the department recommended Ministers not approve for Regional Partnerships funding were assessed as not satisfying, or only partially satisfying, the partnerships and support criterion; and
- in the first three years of the Programme, more than one quarter of approved applications were approved by the Ministerial decision-maker subject to the subsequent confirmation of the co-funding proposed in the application.

What is partnership funding?

3:1.4 Partnership (or 'cocktail') funding arrangements involve a project being financed from a range of different sources. It can also involve a project being divided into different components, so as to obtain funding from more than one source in order to deliver the overall project.

3:1.5 Strong partnership funding offers a number of advantages to the Commonwealth, above demonstrating broader support for the project. In particular, it can also mean that projects are more likely to be sustainable and generate long-term community benefits without the need for ongoing Commonwealth financial support.

3:1.6 A major advantage to funding recipients of a 'cocktail' funding approach is that it can assist applicants to gain more funding for the project by 'leveraging' the contribution from one programme to obtain funds from another. However, obtaining and managing funds from a range of different sources can also increase the complexity of the funding and project management task for applicants. This may be a result of additional effort required to meet the varying aims and objectives, and/or different accountability requirements, of the various funding providers.[299]

3:1.7 In this context, partnership funding arrangements have existed for some time in Commonwealth grants programmes.[300] For example, one of the major selection criteria for a Commonwealth grants programme examined by an earlier ANAO performance audit was evidence of a firm financial commitment from other funding sources for the project.[301] In this respect, the ANAO Administration of Grants Better Practice Guide states that:

> Governments are increasingly expecting the public sector to better coordinate efforts to achieve the Government's policy objectives. This may take the form of networked service delivery where two or more agencies / parties / levels of government work together for a common outcome. Unfocussed and uncoordinated programs waste scarce resources, confuse and frustrate stakeholders and limit overall program effectiveness. The development of effective working relationships with stakeholders is, therefore, an important element in a soundly functioning administrative framework and can help to identify, overcome, and even avoid, fragmentation and unnecessary overlaps in government programs.
>
> …Agencies should consider the opportunities and impacts of networked service delivery as part of planning grant programs. It is equally important to explore opportunities to co-ordinate the delivery of grant programs across multiple agencies and levels of government to maximise outcomes through joint funding arrangements. Community organisations often apply to a number of sources of funding. It is worth trying to identify opportunities for joint funding while taking care to avoid 'double dipping'. There may be improvements in efficiency and effectiveness through more collaborative or

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[299] See, for example, hall aitken, *Structural Funds post 2006—stakeholders' views*, March 2006, p. 11.

[300] For example, a feature of a predecessor programme to Regional Partnerships, the Regional Assistance Programme, was the encouragement of a partnership approach, including the attraction of contributory funding from other sources including State and local government and the private sector.

[301] ANAO Audit Report No.9 1993-94, *Community Cultural, Recreational and Sporting Facilities Program*, Canberra, November 1993, pp. 27–28.

partnering arrangements with other government agencies or the private sector.[302]

3:1.8 In administering partnership requirements, the focus is often on maximising the contributions from other partners in order to achieve a high degree of 'leverage' from Commonwealth funding. However, this should be balanced by a recognition that a high ratio of partnership contributions to Commonwealth funding can raise questions about the importance of the Commonwealth's contribution to the project proceeding. In this respect, an earlier ANAO audit of a Commonwealth grants programme noted that small grants to large construction projects or projects with strong commercial prospects may not have been crucial to the project proceeding.[303] Accordingly, such grants may not represent value for money in that any Commonwealth funding is unlikely to result in outcomes that are in addition to those likely to be achieved through the funding already committed by the applicant and other parties.

3:1.9 The existence of multiple sources of funding can also increase risks to project viability in circumstances where the proposed partnership contributions are not forthcoming, or where actual contributions are at a level lower than that proposed by the applicant in its Regional Partnerships application. This risk is heightened for applicants that have few financial resources of their own to contribute to the project, such that they are heavily reliant on partner funding being realised. For example, this has regularly been the case in relation to projects involving non-profit organisations, due to the nexus that often exists between the receipt of partner contributions and viability risks for such organisations and/or their projects.[304]

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[302] ANAO Better Practice Guide—Administration of Grants, op. cit., pp. 17-18.

[303] ANAO Audit Report No.9 1993-94, op. cit., p. 43.

[304] For example, the application for RP00769 Redevelopment of Geraldton Surf Life Saving Club (the subject of an ANAO case study—see Volume 3 to the audit report) involving $500 000 (plus GST) in Regional Partnerships funds to redevelop the club premises and upgrade the adjoining recreation precinct, proposed that funding would be provided by seven parties, including the Commonwealth. Due to project costs increasing significantly, borrowings have been sourced from the local Council. Due to concerns about the non-profit funding recipient's ability to service these borrowings, the assets being constructed in part with Regional Partnerships funds were encumbered without DOTARS' knowledge.

Assessing and managing partnership funding in the context of the design of the Regional Partnerships Programme

3:1.10 As discussed in Part 2 of this audit report, in making the final decision as to what, if any, funding will be approved for individual Regional Partnerships applications, Ministers are undertaking the role of considering and approving proposals for the expenditure of public money for the purposes of the FMA Regulations. Specifically, FMA Regulation 9 requires that an approver must not approve a proposal to spend public money unless the approver is satisfied, after making such inquiries as are reasonable, that the proposed expenditure:

- is in accordance with the policies of the Commonwealth; and
- will make efficient and effective use of the public money.

3:1.11 As also noted in Part 2, all such inquiries and resulting conclusions should be conducted in the context of the assessment criteria approved for the Programme and advised to potential applicants. Accordingly, having regard to the published Regional Partnerships Guidelines, an important issue to be addressed as part of the reasonable inquiries required by Regulation 9 as to the efficient and effective use of public money for individual grant applications is the extent to which the project for which Regional Partnerships funding has been sought satisfies the partnerships and support criterion.

3:1.12 The Ministerial approval of Regional Partnerships projects establishes the project recipient, the Regional Partnerships Programme funding amount, the total project amount, specific partners, individual and total partnership contributions and any conditions applied as part of the approval process.[305] Until 10 May 2007, where changes to approved projects (including partnerships arrangements) occurred after Ministerial approval, further Ministerial approval had been required. On that date, the Ministerial Committee delegated to DOTARS officials the power to approve minor variations requested by funding recipients after the Committee has approved Regional Partnerships funding for a project[306] subject to three conditions,

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[305] DOTARS Ministerial Submission, *Proposals to Improve Regional Partnerships Programme Processes*, 18 April 2007, Attachment C, paragraph 1.

[306] The delegation covers variations before the signing of a Funding Agreement as well as variations after the signing of a Funding Agreement.

including that the total level of partner contributions remains at or above the required percentage specified in the Regional Partnerships Programme Guidelines.[307]

3:1.13 Prior to the Ministerial Committee agreeing to this delegation, DOTARS officials had not been empowered to approve any variations to the specifics of a project approved by Ministers for Regional Partnerships funding (including the identity of partners and the quantum of their contributions). Further in this respect, when announcing the delegation, the Minister for Transport and Regional Services reiterated that ultimate responsibility for project approval decisions remains with the Ministerial Committee.[308]

Implications for assessing and confirming partner co-funding

3:1.14 In the Ministerial briefing that led to the 10 May 2007 delegation being made, DOTARS advised the Ministerial Committee that one of the reasons for an increase in the number of variations being sought for approved projects was that:

> …to make it easier for applicants, the requirement to provide evidence of confirmed partnership contributions and evidence of development approvals has been loosened in the application process and is increasingly dealt with through the development of the Funding Agreement and prior to first payments being made. Applicants are increasingly finding, however, that when they seek further confirmation of funding from funding partners the funding partners are unable to meet their obligations. This has the effect of project proponents having to seek alternative funding partners and then seek a variation to their project.

3:1.15 Accordingly, there are benefits for the efficiency of Programme administration from DOTARS closely scrutinising and, where possible, confirming partner contributions prior to finalising its project assessment and recommendation to the Ministers.

3:1.16 Where the identity, amount and terms and conditions of partner contributions have not been confirmed prior to DOTARS completing its assessment of an application, the Programme administration arrangements:

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[307] That is, 50 per cent of total project costs for community projects and 60 per cent of cash costs for commercial projects.

[308] The Hon Mark Vaile MP, Minister for Transport and Regional Services, *2007 Area Consultative Committees Conference*, op. cit.

- enable Regional Partnerships funding to be approved subject to partner funding being confirmed; and
- require, through a standard clause in the Funding Agreement, that the funding recipient provide to DOTARS, within 20 business days of the Funding Agreement being signed, written evidence of the terms and conditions of all partner funding.

Implications for the management of partner co-funding through the Funding Agreement

3:1.17 As a consequence of Ministers taking account of the nominated contributions of all funding partners (as advised in the departmental assessment) in deciding whether to approve funding for a project:

- it is important that the Funding Agreement subsequently executed by the department provides an effective means of securing the partnership funding arrangement endorsed by the Ministerial decision-maker. This provides a sound basis for the effective administration of a partnerships-based grants programme;
- FMA Regulation 13[309] requires that the Regional Partnerships Funding Agreement signed by DOTARS reflect the funding partners and their contributions advised to the Ministerial decision-maker when funding was approved.[310] Where changes occur between approval and preparation of the Funding Agreement, Ministerial approval has been required, noting that the 10 May 2007 delegation now provides some administrative flexibility to the department in this area; and
- once the Funding Agreement has been signed, DOTARS' management of the Agreement extends beyond the management of the Regional Partnerships contribution to the project to include monitoring changes in the contribution arrangements of any of the partners. The 10 May

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[309] FMA Regulation 13 requires that a person may not enter into a contract, agreement or arrangement under which public money is or may become, payable unless a proposal to spend public money for the proposed contract, agreement or arrangement has been approved under FMA Regulation 9 and, if necessary, in accordance with FMA Regulation 10.

[310] In this respect, ANAO's legal advice was that: 'In the context of the Regional Partnerships Programme, the spending proposal is based on a detailed application and it is expenditure for that application which is the spending proposal. That being so, the Funding Agreement will be constrained closely by what has been approved by the Ministerial Committee.'

> 2007 delegation also provides some administrative flexibility to the department in this area.

Senate Committee

3:1.18 In its conclusions in the report of its inquiry into the Regional Partnerships Programme, the Senate Committee commented as follows in relation to partnerships funding:

> evidence to the inquiry indicated that the employment focussed aims and performance measures for [*the Regional Partnerships Programme*] do not meet the development needs of all regions. The Committee also heard that the partnership funding targets of the program are prohibitive for some communities. Yet, as evident in the case studies, expected levels of partnership support have been waived for some high cost projects with political profile.[311]

3:1.19 In this respect, the Senate Committee was particularly referring to its Primary Energy (Gunnedah Grains to Ethanol) and Tumbi Creek Dredging project case studies.[312]

3:1.20 In relation to the Primary Energy project, the Senate Committee reflected on the Regional Partnerships Programme contributing 70 per cent of total project costs. DOTARS prepared two assessments in relation to this project (following a Ministerial decision to approve funding for the project), both of which concluded that the project did not satisfy the partnerships and support criterion. The department noted that, in the case of commercial ventures, the normal minimum requirement is 50 per cent partner contributions, although in most cases it is higher, normally 70 per cent. As discussed in Chapter 5 of Part 2 of the audit report, the earlier approval of funding for the project was subsequently endorsed under the SONA procedures, which provided for applications that did not satisfy the Programme Guidelines to be nonetheless approved for funding.

3:1.21 In relation to the Tumbi Creek Dredging project, the Senate Committee noted that the first application for funding for the project was predicated on a tri-partite funding arrangement, with Council, State Government and the Commonwealth each contributing $680 000.[313] After the first application was

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[311] Senate Committee Report, op. cit., p. 203.

[312] ibid.

[313] ibid., p. 73.

approved, a second application was submitted seeking a further $680 000 in Regional Partnerships funding in place of the State Government funding, bringing the total Commonwealth contribution to $1.3 million, or two-thirds of the project cost. Council was to provide the other third. The additional $680 000 was also approved. The Committee concluded that it was unusual and inappropriate for federal funds to be used to 'top up' funding to Regional Partnerships projects that have inadequate levels of partnership support.[314]

3:1.22 Having regard to the evidence it had heard, the Senate Committee's concerns in relation to partnership funding were focussed on performance measures for ACCs. In this respect, it recommended that the Government negotiate with each ACC in relation to key performance indicators, including job creation and partnership support, to ensure performance measures are regionally appropriate. The Government's November 2006 response agreed in part with the recommendation, commenting that:

> Key performance indicators currently apply to ACCs to ensure programme objectives are met. Performance indicators for ACCs will be reviewed this year. While the review will involve consultation with ACCs, effective measurement of ACC performance and performance across the *Regional Partnerships* programme, requires a national set of indicators.
>
> The Government announced on 15 November 2005 that the Minister for Transport and Regional Services will provide written advice and guidelines each year to ACCs outlining the Government's broad policy priorities for the *Regional Partnerships* programme.

Content of this part of the audit report

3:1.23 The intended Programme framework for assessing and administering partnership contributions is illustrated by Figure 3:1.1.

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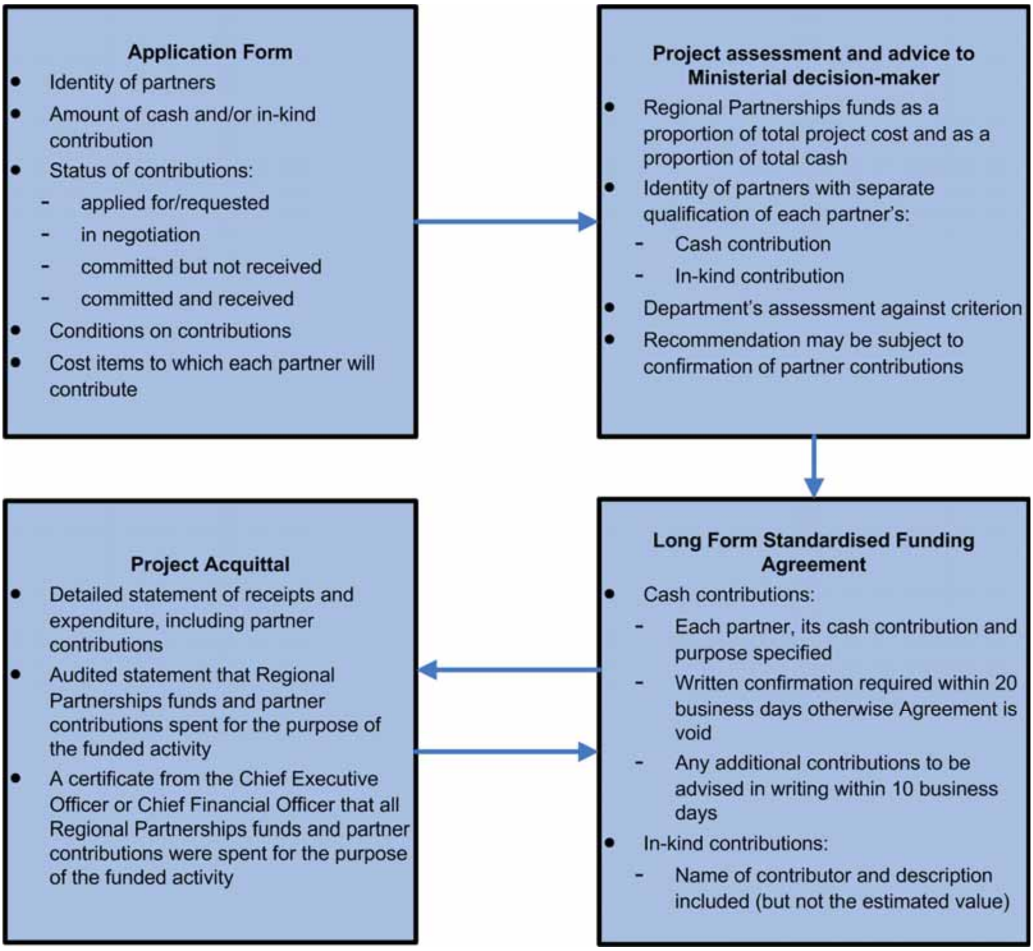
[314] ibid., p. 90.

Figure 3:1.1

Partnership contributions: application, assessment and management



Application Form

- Identity of partners
- Amount of cash and/or in-kind contribution
- Status of contributions:
  - applied for/requested
  - in negotiation
  - committed but not received
  - committed and received
- Conditions on contributions
- Cost items to which each partner will contribute

Project assessment and advice to Ministerial decision-maker

- Regional Partnerships funds as a proportion of total project cost and as a proportion of total cash
- Identity of partners with separate qualification of each partner's:
  - Cash contribution
  - In-kind contribution
- Department's assessment against criterion
- Recommendation may be subject to confirmation of partner contributions

Long Form Standardised Funding Agreement

- Cash contributions:
  - Each partner, its cash contribution and purpose specified
  - Written confirmation required within 20 business days otherwise Agreement is void
  - Any additional contributions to be advised in writing within 10 business days
- In-kind contributions:
  - Name of contributor and description included (but not the estimated value)

Project Acquittal

- Detailed statement of receipts and expenditure, including partner contributions
- Audited statement that Regional Partnerships funds and partner contributions spent for the purpose of the funded activity
- A certificate from the Chief Executive Officer or Chief Financial Officer that all Regional Partnerships funds and partner contributions were spent for the purpose of the funded activity

Source: ANAO analysis of the Programme administration arrangements for the first three years of the Regional Partnerships Programme.

3:1.24 Having regard to the importance of achieving the partnership outcomes Government and the community expect, this part of the report is structured around the Programme framework, as follows:

- Chapter 2 examines the partner information required from applicants and outlines the assessment procedures for the partnerships and support criterion;
- Chapter 3 examines DOTARS' practices in assessing the level of co-funding;

- Chapter 4 assesses the timeliness and effectiveness of practices that have been adopted in respect to confirming the existence of proposed partner co-funding, its terms and any related conditions; and
- Chapter 5 examines the processes and practices that have been employed by DOTARS to contract for the receipt of the partner contributions endorsed by the Ministerial decision-maker, and the evaluation of partnership outcomes.

3:2 Partnerships Assessment Framework

This chapter provides an overview of the legislative framework that gives rise to a requirement for reasonable inquiries to be made in relation to the partnerships and support criterion before funding is approved for Regional Partnerships projects. It examines the partner information required from applicants and outlines the assessment procedures for the partnerships and support criterion.

Introduction

3:2.1 Since it commenced in July 2003, one of the key stated features of the Regional Partnerships Programme has been that applicants and their other project partners (if any) are expected to make a financial contribution to the cost of the project.

3:2.2 The then Minister for Transport and Regional Services and the then Minister for Regional Services, Territories and Local Government agreed to the final draft Regional Package Guidelines on 23 and 30 January 2003 respectively. Following this approval, administrative procedures were progressed and the draft application form developed and tested with DOTARS officials and ACCs. As a result of this process, a number of refinements were identified to improve the clarity and presentation of the Programme Guidelines. The key refinements included combining the partnerships and community support criteria into a single criterion with the intention of better reflecting the close association between the two considerations. This and other changes were agreed by the then Minister for Transport and Regional Services and the then Minister for Regional Services, Territories and Local Government on 12 and 13 May 2003 respectively.

3:2.3 Between the commencement of the Programme in July 2003 and June 2006, the published Regional Partnerships Programme Guidelines provided relatively limited information to potential applicants and other interested parties on the way in which applications would be assessed against the partnerships and support criterion. Specifically, each version of the Programme Guidelines during this period stated as follows:

ASSESSMENT CRITERIA

...

b) Partnerships and Support

Establishing community support is critical to the long term success and ownership of your project.

Partnerships are a strong demonstration of support. Partnerships are established where individuals, private sector businesses, community/not-for-profit organisations, and other organisations and any local, state and/or Australian Government agencies make a financial and/or in-kind contribution to your project.

- The project would demonstrate that it is a partnership if:
  - the applicant is working, where appropriate, with the community, the private sector and other departments across all levels of government; and
  - funding options from these sources have been identified.
- The project would be considered to have demonstrated community support where it has:
  - contributions from a broad cross-section of the community. These contributions may take the form of cash, in-kind* such as volunteer support for the project, letters of support and evidence of endorsement through consultation;
  - cash contributions from relevant industry and stakeholders. In the case of business investment projects, the financial contribution should be new investment;
  - evidence of support from local government(s).

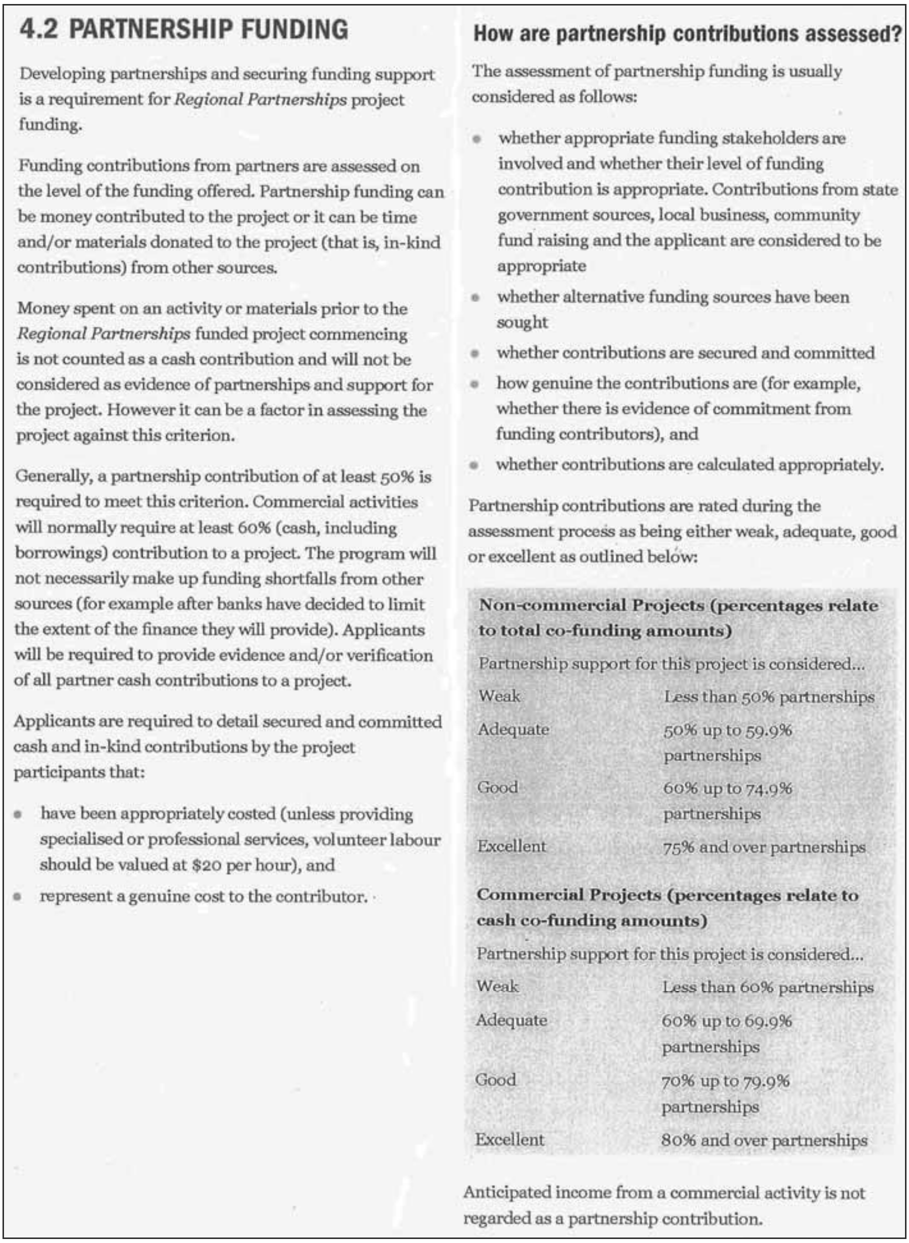
*ACCs can assist with determining the value of this.

3:2.4 In December 2006, DOTARS advised ANAO that one of the substantial improvements it had made to the administration of the Programme involved a revision of the Programme Guidelines, including greater clarification on how nominated partnerships contributions will be assessed. A revised version of the Guidelines was issued in July 2006. It did, as suggested by the department to ANAO, provide significantly enhanced guidance with respect to the partnership funding criterion. In particular, the Guidelines now include:

- definitions of partner/partnership/funding partner; in-kind contributions/in-kind support; and cost shifting; and
- clarified and expanded guidance on how applications will be assessed against the partnership criterion (see Figure 3:2.1).

Figure 3:2.1

Expanded guidance on assessment against the partnership funding criterion



4.2 PARTNERSHIP FUNDING

Developing partnerships and securing funding support is a requirement for *Regional Partnerships* project funding.

Funding contributions from partners are assessed on the level of the funding offered. Partnership funding can be money contributed to the project or it can be time and/or materials donated to the project (that is, in-kind contributions) from other sources.

Money spent on an activity or materials prior to the *Regional Partnerships* funded project commencing is not counted as a cash contribution and will not be considered as evidence of partnerships and support for the project. However it can be a factor in assessing the project against this criterion.

Generally, a partnership contribution of at least 50% is required to meet this criterion. Commercial activities will normally require at least 60% (cash, including borrowings) contribution to a project. The program will not necessarily make up funding shortfalls from other sources (for example after banks have decided to limit the extent of the finance they will provide). Applicants will be required to provide evidence and/or verification of all partner cash contributions to a project.

Applicants are required to detail secured and committed cash and in-kind contributions by the project participants that:

- have been appropriately costed (unless providing specialised or professional services, volunteer labour should be valued at $20 per hour), and
- represent a genuine cost to the contributor.

How are partnership contributions assessed?

The assessment of partnership funding is usually considered as follows:

- whether appropriate funding stakeholders are involved and whether their level of funding contribution is appropriate. Contributions from state government sources, local business, community fund raising and the applicant are considered to be appropriate
- whether alternative funding sources have been sought
- whether contributions are secured and committed
- how genuine the contributions are (for example, whether there is evidence of commitment from funding contributors), and
- whether contributions are calculated appropriately.

Partnership contributions are rated during the assessment process as being either weak, adequate, good or excellent as outlined below:

Non-commercial Projects (percentages relate to total co-funding amounts)

Partnership support for this project is considered...

Weak	Less than 50% partnerships
Adequate	50% up to 59.9% partnerships
Good	60% up to 74.9% partnerships
Excellent	75% and over partnerships

Commercial Projects (percentages relate to cash co-funding amounts)

Partnership support for this project is considered...

Weak	Less than 60% partnerships
Adequate	60% up to 69.9% partnerships
Good	70% up to 79.9% partnerships
Excellent	80% and over partnerships

Anticipated income from a commercial activity is not regarded as a partnership contribution.

Source: Regional Partnerships Guidelines, July 2006, pp. 11 and 12.

3:2.5 The changes made to the Programme Guidelines promulgated in July 2006 relating to the assessment of applications against the partnership funding criterion (see Figure 3:2.1) were not underpinned and supported by a contemporaneous update to the relevant sections of the Internal Procedures Manual.

3:2.6 In this context, in December 2006, DOTARS advised ANAO that it had committed to a regular review and ongoing revision of the Internal Procedures Manual to ensure:

- all those involved in the administration of the Regional Partnerships Programme—from receipt of applications, assessment of proposals, negotiation of funding agreements to funding agreement management—have clear advice on what is expected at each stage of the process; and
- it remains up-to-date and consistent with Programme policy and procedures.

3:2.7 On 15 February 2007, DOTARS advised the Senate Rural and Regional Affairs and Transport Committee that the drafting of a new Internal Procedures Manual was nearing completion.[315] Similarly, on 20 March 2007, DOTARS advised ANAO that it anticipated that the revised Internal Procedures Manual would:

> be available shortly but we are working to ensure the matters you continue to raise are addressed. As soon as it is cleared as ready for circulation, we will provide you with a copy.

3:2.8 In May[316] and June 2007[317], DOTARS provided ANAO with a draft revised Internal Procedures Manual. DOTARS advised ANAO that it had already implemented a number of the checklists, templates and the risk management framework matrix from the revised Internal Procedures Manual. DOTARS further advised ANAO that it was endeavouring to finalise the Internal Procedures Manual prior to training that would be delivered towards the end of July 2007 for assessors, and then for ACCs (in relation to developing

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[315] Official Committee Hansard, Senate Standing Committee on Rural and Regional Affairs and Transport, 15 February 2007, RRA&T5.

[316] In May 2007, DOTARS provided ANAO with copies of Section 6: *Funding Agreement Development and Execution* and Section 7: *Funding Agreement Management and Completion* of the revised Manual, which it advised had recently been released to departmental staff working on the Regional Partnerships Programme.

[317] In June 2007, DOTARS provided ANAO with drafts of remaining sections of the revised Internal Procedures Manual which the department advised had not yet been finalised or issued to staff.

an application) thereafter. The revised Procedures Manual was released in July 2007, with further training scheduled to be provided in October 2007.

Partner information sought from applicants

3:2.9 At the time of audit, there were two versions of the Regional Partnerships application form. One was for projects seeking Regional Partnerships funding of $25 000 or less; the other for projects seeking more than $25 000. Irrespective of the quantum of Regional Partnerships funding being sought, all applicants were required to provide details of their contribution (if any) to the project and the contributions from any project partners (see Figure 3:2.2).

Figure 3:2.2

Partner information required from applicants

PART 3: PARTNERS

7. **Tell us about your project partners (If you have more than 6 partners please provide the same details as below on a separate piece of paper).**

Please provide details of your contribution to the project in addition to the contributions of your project partners. Please list your contribution/ your sponsor's contribution first.
If details change after submitting this form, please advise the relevant DOTARS Regional Office as soon as possible. Confirmation of details may be requested.

a) Project Partners' Organisation Details
Partner 1

*** Legal Name of Organisation**		
*** Type of Organisation**	☐ Individual ☐ Non-profit organisation ☐ For-profit organisation ☐ Research institution ☐ Registered charity/charitable organisation	☐ Indigenous Council ☐ Local Government ☐ State Government ☐ Australian Government
Name of funding program		*(if applicable)*
*** Value of contribution**	$ (cash)	$ (in-kind)
Insert any conditions on the contribution (if applicable)		
*** Status of contribution**	☐ Application submitted / Contribution requested ☐ In negotiation ☐ Contribution committed and yet to be received ☐ Contribution received ☐ Own contribution	

Details of contact person for Partner Organisation			
Position		* Title	
* First Name		* Last Name	
* Phone 1		* Email Address	

Source: Regional Partnerships application forms, March 2006 version, p. 6. Note: applicants were advised that an asterisk (*) next to a question meant that the information was mandatory.

3:2.10 The concept of requiring grant applicants to also obtain funding from other partners has been applied in other Commonwealth grants programmes. Similar to the Regional Partnerships Programme, evidence of a firm financial commitment from other funding sources for the project has been a major selection criterion under other programmes. For some such programmes, applicants have been expected to submit written evidence of commitments from other sources at the time of application.[318]

3:2.11 As shown in Figure 3:2.2, the Regional Partnerships Programme application form in place at the time of audit fieldwork requested that applicants list their funding partners and tick a box indicating the status of each proposed contribution. However, the form neither required nor requested that applicants provide, as part of the documentation accompanying their application, evidence such as:

- where applications for partner contributions are said to have been submitted or contributions requested, a copy of the application/request;
- where contributions are said to have been committed, a copy of documentation evidencing that commitment and any related terms and conditions; or
- where contributions are said to have been received, documentation evidencing the receipt of funds.

3:2.12 By way of comparison, as illustrated by Figure 3:2.3, applicants were asked to provide supporting documentation in relation to other aspects of the partnerships and support criterion. Specifically, applicants were asked to provide evidence to support any formal statutory approvals provided by the relevant Local Government Authority as well as letters of support that demonstrated community support for the project. In this latter respect, the usual procedure was for project assessments provided to the Ministerial decision-maker to identify those parties (such as the local Federal Member) that had provided letters of support for the project. An absence of letters of support may contribute to an application being assessed as not satisfying the partnerships and support criterion.

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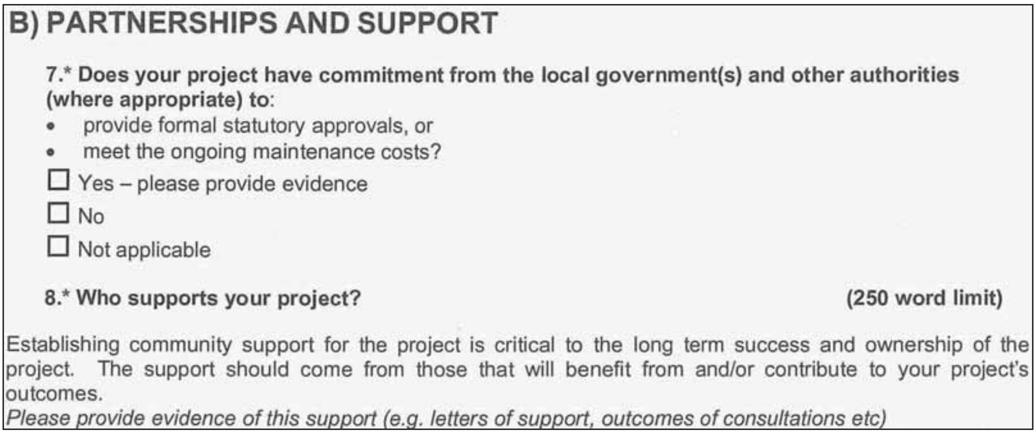
[318] See, for example, ANAO Audit No.9 1993-94, op. cit., pp. 2 and 27.

Figure 3:2.3

Partnerships and support criterion: supporting information requested from applicants



B) PARTNERSHIPS AND SUPPORT

7.* Does your project have commitment from the local government(s) and other authorities (where appropriate) to:

- provide formal statutory approvals, or
- meet the ongoing maintenance costs?

☐ Yes – please provide evidence
☐ No
☐ Not applicable

8.* Who supports your project? **(250 word limit)**

Establishing community support for the project is critical to the long term success and ownership of the project. The support should come from those that will benefit from and/or contribute to your project's outcomes.
Please provide evidence of this support (e.g. letters of support, outcomes of consultations etc)

Source: Regional Partnerships application forms, March 2006 version, p. 12.

3:2.13 In some circumstances, the letters of support provided with the Regional Partnerships application for funding have been from parties that are also nominated as providing cash and/or in-kind funding to the project. In such circumstances, it would be reasonable to expect that the letter of support would also include statements confirming the existence of, or intention to provide, funding towards the project. Where this is not the case, there is merit in DOTARS making further enquiries.

3:2.14 For example, the Regional Partnerships application for RP01016 Design and Construction of an Interpretive Centre for the Carnarvon One Mile Jetty identified a total contribution of $112 000 from the Shire of Carnarvon comprising:

- $100 000 cash; and
- $12 000 in-kind comprising $2 000 in assistance on the Steering Committee of Council's Director of Planning (10 months of fortnightly meetings equating to 40 hours at $50 per hour) and $10 000 in contract document preparation/works superintendency through Council's Engineering Department.

3:2.15 The Shire of Carnarvon's letter of support attached to the application did not state that Council was making a financial contribution to the project. Notwithstanding this, DOTARS did not, in the course of the application assessment, seek advice from Council confirming its financial support to the project, either directly or indirectly (such as through examination of Council meeting minutes). In this respect, there was, at the time of the October 2004 project assessment and funding approval for this project, no intended cash contribution to the project from Council, only ongoing financial assistance to the non-profit applicant to help with its financial sustainability. This situation would have been apparent to DOTARS had it examined Council meeting minutes available at the time of the assessment. Due to substantial uncertainties concerning the identity of the project partners, and how much each would contribute to the project, DOTARS was unable to finalise and sign a Funding Agreement for nearly two years after the then Parliamentary Secretary had agreed with DOTARS' recommendation and approved funding of $300 000 (plus GST).[319]

3:2.16 Further delays have occurred in the project proceeding. Specifically, information provided to ANAO by DOTARS in October 2007 stated that the department had been advised by the funding recipient that construction was at least two years away. DOTARS advised the funding recipient that the department was obligated to inform the Minister of the situation and prepare a brief to the Ministerial Committee recommending that Regional Partnerships funding be withdrawn.

Evidence sought as part of project assessment

3:2.17 The practice widely adopted during the first three years of the Programme examined by ANAO was that, instead of requiring evidence of partner co-funding to be provided with the Regional Partnerships application, DOTARS may have sought such evidence as part of its assessment of projects. Specifically, the various versions of the Internal Procedures Manual that were in place up to and including June 2007 provided that, when assessing applications for funding, the department may:

- examine copies of local government meeting minutes;
- request a copy of any letters of funding commitment;
- seek a copy of any letters advising outcome of funding application; and/or
- contact the partner, with this contact to be documented.

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[319] In addressing issues raised by a February 2007 ANAO case study of this project, in May 2007 (nine months after the first Regional Partnerships payment was made), Council provided DOTARS with conditional advice on possible tied funding of $70 000 related to the project.

3:2.18 ANAO's analysis of the 278 successful and unsuccessful applications in the audit sample revealed that it was uncommon for DOTARS assessors to contact the nominated project partners so as to confirm the status of the nominated contributions. Instead, confirmation was most often sought through the applicant themselves.

3:2.19 Similarly, there were few instances in ANAO's sample where DOTARS documented any examination, during the assessment phase, of the meeting minutes of Local Government Authorities nominated as a project partner.

3:2.20 Assessment practices varied in respect to obtaining independent documentation substantiating funding commitments and the outcome of funding applications. For some projects in the audit sample, such documentation was obtained, most often in the form of letters from the funding partner advising the applicant of funding approval. However, for many projects examined by ANAO, substantiating documentation of that nature was not obtained, with DOTARS often relying on assurances from the applicant concerning the status of partner co-funding. For example, in commenting on the ANAO case study on RP01016 Design and Construction of an Interpretive Centre for the Carnarvon One Mile Jetty[320] referred to at paragraph 3:2.14, DOTARS' Western Australia Regional Office advised National Office in March 2007 that:

> We received email confirmation from the applicant *[in relation to contributions from other project partners]* as was standard practice at the time.

3:2.21 In other instances, the only information held by the department to inform its assessment of the status of nominated partner contributions were the statements made by the applicant in the application form originally submitted (see Figure 3:2.2). This approach has not provided a sound basis for advising Ministerial decision-makers that proposed partner contributions had been confirmed. For example, DOTARS' April 2006 assessment of RP02433 Braybrook Community Enterprise and Training Shed (BETS) application for $11 625 (plus GST) in Regional Partnerships funding advised the Ministerial Committee that $255 000 in cash co-funding from the Victorian Department of Human Services had been confirmed, together with $10 000 in co-funding from the Brotherhood of St Laurence.[321] However, the Funding Agreement

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[320] The case study of this project has not been published.

[321] The assessment advised that all contributory funding had been confirmed except for the proposed $20 000 grant from the Department of Victorian Communities. In May 2006, the Committee approved Regional Partnerships funding subject to confirmation of all contributory funding.

subsequently executed for that project included a contribution of $200 000 from the Department of Human Services, 20 per cent less than the amount the Committee had been advised had been confirmed. Issues relating to the confirmation by DOTARS of proposed co-funding contributions subsequent to the receipt of Regional Partnerships applications are discussed in more detail in Chapter 4 in this part of the audit report.

Revised internal procedures

3:2.22 In June 2007, DOTARS advised ANAO that it was making changes to the draft revised Internal Procedures Manual to address the above issues. In particular:

- the new eGrants application form would request applicants to provide documentation verifying proof of partner contributions and the nature of the funds;
- the new eGrants application form had also addressed the issue of letters of support (for cash and in-kind funding) including statements confirming the existence of, or intention to provide, funding towards the project; and
- assessors are to be required to seek written evidence of partnership contributions where this has not been previously supplied with the application, with the updated revised Procedures Manual outlining the types of substantiation documentation required.

Assessment procedures

3:2.23 Each of the five versions of the Internal Procedures Manual that were in place from the commencement of the Programme up to and including June 2007 included guidance on analysing applications against the partnerships and support criterion. There had been few changes to these procedures over the four years to June 2007.

3:2.24 The original (July 2003) version of the Internal Procedures Manual included 18 questions for assessors to consider when analysing applications against the partnerships and support criterion (see Table 3:2.1).

Table 3:2.1

Assessments against the partnerships and support criterion

Analysis considerations
Does the project have partners?
Is Regional Partnerships the most appropriate source of funding for this project?
What proportion of the project is the applicant funding? Cash or in-kind?
Do the applicant's financial statements indicate the applicant can commit to the stated contribution?
Does the applicant's contribution indicate a strong commitment to the project?
What proportion of the project is Regional Partnerships requested to fund?
Are there any other partners in the project? Are they providing cash or in-kind support?
Are partner's contributions 'substantial'? Consider the size of the community, the type of contribution, who the partners are, the size of the project, access to other funding sources in the community e.g. is the local government making a small contribution to all projects in its region?
Are there other government agencies that should be partners in this project? Has the applicant approached these agencies? What are the outcomes?
Is the project industry specific? Is the appropriate industry/peak body involved?
Where the project is industry specific has the relevant industry and stakeholders provided cash contribution?
Do the partnership contributions (including applicant's and expected Regional Partnerships contributions) and cost of the project balance?
Is the cash to in-kind contribution reasonable for the type of project?
Are there any conditions on partner contributions? What are the impacts of these?
Is the calculation of the in-kind contributions reasonable/consistent with the costs for the region? Eg labour costs in more remote regions may be higher
What is the status of the contributions? Do these need to be confirmed?
Are the partners consistent with the support?
Have the financial contributions from both the applicant and other sources been verified?

Source: Internal Procedures Manual, July 2003, pp. 62 and 63.

3:2.25 The next version of the Internal Procedures Manual, dated June 2004, gave increased emphasis to the assessment of in-kind support and consideration as to whether nominated partnership contributions were retrospective. Specifically, two additional considerations were included, as follows:

- What is the nature of in-kind support? If it is a cost that is already incurred regardless of the project, it should not be included (e.g. security offered in a building with donated office space). An employee's attendance at steering committees may be accepted as an in-kind contribution where the time spent represents an opportunity cost to the employer, but not if the task falls within the employee's usual duties. Assessors should consider the true value of any in-kind contribution, measuring it by what savings would be made if it was not being offered to a project and what is forgone to provide it.

- Is the contribution retrospective—i.e. is the applicant seeking recognition of a contribution already made prior to the expected start date for the project. Retrospective funding is not eligible.

3:2.26 A further version of the Internal Procedures Manual was issued in September 2004. The only change made in the guidance for assessors in respect to analysing applications against the partnerships and support criterion was inclusion of the following consideration:

- Is there anybody missing from the list of partners (e.g. community, industry, council, state Govt)?

3:2.27 The February 2005 version made no changes to the analytical considerations for assessments against the partnerships and support criterion.

3:2.28 The September 2005 version of the Internal Procedures Manual was in place at the time of ANAO audit fieldwork. The analytical considerations included in the prior version were retained. However, some significant additions were made to the documented procedures for assessments against the partnerships and support criterion. Specifically, the September 2005 version included:

- a new sub-section defining key terms (in addition to the existing definitions section of the Internal Procedures Manual). Prior versions had only defined the term 'partner'. The September 2005 version added to this with definitions of 'duplication/cost shifting', 'double dipping' and 'in-kind';
- a new section formalising earlier existing practices for rating the strength of partnership support in terms of the quantum of partnership contributions to the total project cost (cash and in-kind) for non-commercial projects and project cash costs for commercial projects;
- additional procedures for assessing the validity of nominated partnership contributions, including questions relating to whether the contribution will be realised, whether the contribution relates directly to project activities and explicit consideration of whether the

applicant/partner contribution should be considered to be cost shifting; and

- a requirement that the analysis consider whether the applicant (and partners) would be contributing funds to the project equitably throughout the project period, rather than all Regional Partnerships funds being spent first before applicant funds are spent.

3:2.29 The draft revised Internal Procedures Manual provided by DOTARS to ANAO in June 2007 included a separate section relating to assessing partnership funding. The revised Manual includes analytical procedures consistent with those set out in the prior (September 2005) version. However, it has been structured in a way that could be expected to promote greater attention to rigorous assessment of partnership funding for Regional Partnerships applications. Particularly noteworthy is the inclusion of three checklists that assessors will be required to complete relating to the partnerships and support criteria, partner contributions and valuing applicant and partner contributions.

3:2.30 The revised Internal Procedures Manual states that assessors should consider all partnership funding issues and refer to the three checklists before forming a view about whether the application satisfies or does not satisfy the partnerships and support criteria. The revised Manual also requires that, where the assessor identifies any risk that the partnership funding is not fully committed, they should incorporate conditions to be fulfilled into the recommendations to the Ministerial Committee. The revised Manual states that suggested conditions to be fulfilled may include matching funding by appropriate partners and confirmation of partnership funding.

In-kind contributions

3:2.31 The July 2006 Regional Partnerships Programme Guidelines defined in-kind contributions as:

> products or services provided to the project that have an intrinsic value, but are not provided as direct cash or financial support. Examples include volunteer labour and the use of an office at no charge (the value of the rent not charged would be an in-kind contribution).

3:2.32 The Regional Partnerships application form has required applicants to identify any in-kind contributions they or any of their project partners will be making to the project. Applicants are also asked to explain how the dollar value of any in-kind contributions has been calculated and any conditions on the contribution. The department's Internal Procedures Manuals have outlined that the assessment of nominated in-kind contributions is to consider:

- the 'true value' of any in-kind contributions, measuring it by what savings would be made if it was not being offered to a project and what is forgone to provide it;
- whether the ratio of cash contributions to in-kind contributions is reasonable for the type of project;
- whether the in-kind contribution is a genuine contribution to the project itself or part of ongoing operations;
- the costing of voluntary labour; and
- where the in-kind contribution relates to funding provided to an earlier stage of a larger project, whether the two stages are dependant on each other such that they form a single overall project.

3:2.33 In its project assessment for the 278 applications in ANAO's sample, DOTARS concluded that 206 of the applications had involved in-kind contributions. These contributions aggregated to $30.62 million. As illustrated by Figure 3:2.4, the significance of in-kind contributions to the projects in ANAO's sample varied considerably, but in the majority of projects represented a relatively minor contribution.[322] This is because the in-kind contributions often related to items such as volunteer labour to undertake, manage or evaluate the project. These types of contributions do not present significant assessment challenges to DOTARS. Accordingly, on a risk management basis, Figure 3:2.4 illustrates that there are opportunities for DOTARS to focus its assessment of nominated in-kind contributions on those instances where the contribution represents a significant proportion of the partner funding for a project.

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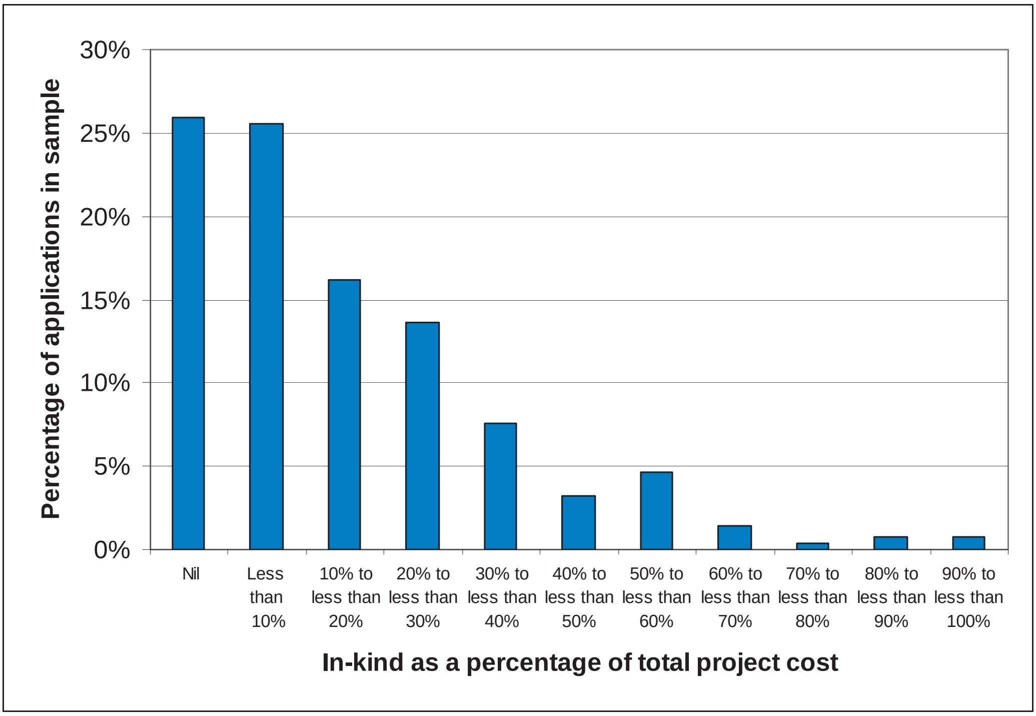
[322] Similarly, in the broader population of all projects approved for Regional Partnerships funding between 1 July 2003 and 30 June 2006, half of approved projects involved assessed in-kind contributions representing 10 per cent or less of the total project budget, with in-kind contributions representing 50 per cent or more of the total project budget for only seven per cent of approved projects.

Figure 3:2.4

Nominated in-kind contributions as a proportion of total project cost for projects in audit sample



Source: ANAO analysis of project assessments in the audit sample.

3:2.34 In many cases where in-kind contributions have represented a significant proportion of partner funding for a project, this has been due to the inclusion of a land valuation as an in-kind contribution. However, DOTARS' procedures in this respect have been inconsistent. While many projects involving construction of buildings or other facilities have included an in-kind contribution attributed to the value of the land on which the construction was to occur, the assessment of a number of similar projects included no in-kind contribution relating to land value. Where such in-kind contributions have been included, DOTARS' procedures have also been inconsistent in respect to the confirmation of both the valuation nominated in the application and the extent to which there is a genuine contribution, through a transfer of title.

3:2.35 For example, in its project assessment recommending approval of $150 000 in Regional Partnerships funding for RP00962 Ryder-Cheshire Foundation Mount Gambier Home, DOTARS stated that the local Council was providing in-kind support to the value of $100 000 (representing 14 per cent of total project costs) in the form of the provision of the land for the building. In that case, documentation was obtained confirming that the land would be gifted to the project.[323] Attached to the Regional Partnerships application was a letter of support from the City of Mount Gambier to the applicant which stated that:

> Council refers to previous correspondence regarding the Council offer to gift a parcel of land situated at Willow Avenue, Mount Gambier upon which the proposed residential unit complex for the disabled could be constructed.
>
> Council is pleased to also confirm that it will at its expense entirely control fill the site so as to make the site level and suitable for construction purposes and rebuild new stormwater drainage systems away from the subject site.

3:2.36 By way of comparison, the ANAO case study of RP00622 Jarrahdale Heritage Park revealed that the project assessment provided to the Ministerial decision-maker advised that 62 per cent of nominated partnership contributions to the project related to $1.4 million from the National Trust of Australia (WA) representing the value of land on which the Park would be constructed. DOTARS' project assessment did not address the fact that the land was not being donated to the Shire, but rather that the Trust had only consented to the construction of the Park on its land. The Shire has insecure tenure over the land where Regional Partnerships funds are being used to construct key elements of the Heritage Park. In the absence of this in-kind contribution, the Regional Partnerships funding represented 47 per cent of total project costs, rather than the 25 per cent advised to the then Parliamentary Secretary.[324]

3:2.37 There have also been inconsistencies in the approach taken to valuing other types of nominated in-kind contributions. For example:

- in respect, to RP01365 Undercarriage Remanufacture Facility, which is the subject of an ANAO case study, the Ministerial decision-maker was advised that a building extension, in which the equipment that

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[323] However, DOTARS did not seek any evidence to support the valuation of the land donation of $100 000 that had been identified in the Regional Partnerships application. In this respect, the Funding Agreement signed on 15 February 2005 included an in-kind contribution from 'City of Mt Gambier—provision of land for the building ($100 000)' but the audited project income and expenditure statement provided to DOTARS in May 2006 included total in-kind contributions of $70 000.

[324] In November 2007, the Shire advised ANAO that, 'notwithstanding that the application contained the value of the National Trust land on which the Park was to be constructed and the Shire has insecure tenure over the land, the Shire's monetary contribution to the project has totalled $1.2 million to date which is double the cash contribution outlined in the original application.'

Regional Partnerships funds was assisting to purchase would be operated, represented one of two 'substantial in-kind (private enterprise) partnership contributions'. However, there was no uncharged rent to be claimed as an in-kind contribution from the landlord. Instead, DOTARS included the estimated cost of constructing the building extension as the value of an in-kind contribution, notwithstanding that the landlord was to receive a commercial return on its investment by way of increased rent on the premises, over a longer period of time than the existing lease[325]; and

- by way of comparison, in respect to RP01758 Geraldton Marine Service Centre involving the purchase of a 200 tonne heavy boat lifter that was to be situated on land owned by the Geraldton Port Authority (which was not the applicant), the Geraldton Port Authority contribution was valued in terms of the foregone rent over 15 years.[326]

3:2.38 Another item commonly included as an in-kind contribution to a project for which Regional Partnerships funding is being sought is cash expended on completing earlier project stages. Each of the September 2004, February 2005 and September 2005 versions of the Internal Procedures Manual required that:

> Where a project has been staged, funding committed to prior stages can be counted as an in-kind contribution to the project if—and only if—the two stages are dependant on each other and form a single overall project. If either "stage" can be used without the other they should be treated as a stand alone project. Retrospective funding may be a concern, and ACCs and Assessors should be satisfied that an agreement to fund the second stage has not already been made by the applicant.

3:2.39 However, ANAO observed inconsistencies in the audit sample, and more broadly across the Programme, in the approach taken to assessing funds spent on an earlier and/or independent stage of a project. For some applications, the project assessment included such amounts as a cash

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[325] In effect, DOTARS' assessment reflected this commercial investment by the landlord both as an expense (in the viability assessment) and an asset (as in-kind partner funding).

[326] The application stated that the value was $855 000 based on a 15 year lease of 12 000 square metres at $4.75 per square metre. However, DOTARS' assessment of the project did not raise with the applicant the fact that, attached to the application, was a letter of support from the Geraldton Port Authority which stated that the current average lease rate was $5.65 per square metre. The Port Authority valued its contribution at $1 017 000. The DOTARS assessment also did not examine the fact that the details of the lease had not yet been finalised and that State Government Ministerial approval would be required prior to finalisation of the lease.

contribution to the Regional Partnerships-funded project; in others, they were included as an in-kind contribution. There were also instances where the Ministerial decision-maker was advised that amounts expended on an earlier and/or independent stage should not be considered as a genuine partnership contribution to the project for which Regional Partnerships funds were being sought.

Revised internal procedures and training

3:2.40 In June 2007, DOTARS advised ANAO that it had addressed inconsistencies in the assessment of nominated in-kind partner contributions through revised internal procedures and training of staff. For example:

- in respect to land, the revised Internal Procedures Manual includes guidance to assessors on the circumstances in which land can be considered a genuine in-kind contribution (such as, for example, through a transfer of title) and the value that should be placed on in-kind contributions relating to the use of land compared to cash contributions;
- inconsistencies in the assessment of funds spent on an earlier and/or independent stage of a project are being addressed through the centralisation of the assessment process in National Office, providing training to staff and requiring staff to document all considerations in support of their assessment and recommendations; and
- the draft revised Internal Procedures Manual has been expanded such that assessors are to require an acceptable method of accounting for in-kind contributions where these form a significant component of the partner contributions.

Results of assessments against the partnerships and support criterion

3:2.41 In terms of the partnerships and support criterion, since the commencement of the Regional Partnerships Programme, it has been commonplace (but not universal) for project assessments provided to Ministerial decision-makers to include an overall assessment as to whether the partnerships and support criterion was satisfied, together with a rating for the strength of partnerships support as weak, adequate, good or excellent (or some variation thereof). In addition, some assessments have included advice as to whether it was considered that all key partners were represented and whether their contribution was considered appropriate to the benefit they would receive from the project.

3:2.42 Between 1 July 2003 and 30 June 2006, funding was considered by Ministers in relation to 1 413 projects.[327] The largest component of this comprised 1 370 individual projects that were either approved for full or partial funding (981 or 72 per cent) or not approved for funding (389 or 28 per cent). This excludes a further two instances where a decision was made to approve the contribution of Regional Partnerships funds to a project or projects administered through another department.[328] The 981 individual projects that were approved for funding by Ministerial decision-makers in the first three years of the Programme involved aggregate total project costs of $732.97 million (plus GST). Of this amount:

- $167.65 million (23 per cent) was approved by Ministerial decision-makers to come from the Regional Partnerships Programme;
- $487.49 million (67 per cent) involved cash to be provided by applicants and other project partners; and
- $77.82 million (10 per cent) involved in-kind contributions by applicants and other project partners.

3:2.43 In this context, the extent to which the Regional Partnerships Programme was approved to contribute to individual project costs varied considerably. In some instances, Regional Partnerships was expected to contribute a relatively small amount (less than 10 per cent) of the overall project costs.

3:2.44 However, it has been commonplace for Regional Partnerships to be the single largest contributor of cash to a project. This was the case in respect to 496 (51 per cent) of the 981 individual projects approved to 30 June 2006. By way of comparison, the remaining project costs are often funded through a variety of sources, such that the individual contributions of other partners are

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[327] This relates to the primary decision as to whether a particular project would be funded or not and excludes decisions subsequently taken in relation to variations to approved funding or other aspects of an approved project. In the period examined by ANAO, such variations also required Ministerial approval.

[328] There were a further seven applications that were placed ‘on hold’ by the Ministerial decision-maker. Although those projects were not funded, a formal Ministerial decision to not fund the project, or a formal withdrawal by the applicant, was not recorded. As at 30 June 2006, there had also been funding approved for 34 of the 36 projects relating to commitments made during the 2004 election campaign that the Government subsequently allocated for administration through the Regional Partnerships Programme.

considerably lower than that of the Australian Government. In respect to 238 projects (representing 24 per cent of all approved projects to 30 June 2006), the Regional Partnerships Programme was approved to be the single largest cash contributor with the next highest contributor providing 25 per cent or less of total cash to the project.

3:2.45 On some occasions, the risks involved with the Regional Partnerships Programme being the single largest provider of cash to a project have been explicitly recognised in project assessments. For example, the Regional Partnerships funding bid of $25 000 for RP02377 'Economic Potential of Bonnyrigg'—A Future Vision of an Economically Sustainable and Vibrant Bonnyrigg represented 46 per cent of total costs and 50 per cent of cash. The other funding partners were the applicant (Fairfield City Council) with $15 500 cash and the NSW Department of Housing with $10 000 cash (and $4 400 in-kind). DOTARS' assessment was:

> Partnership funding for this project is considered adequate. However, the Department has some concerns that the Australian Government is the major contributor in the partnership, and therefore carrying most of the risk. The NSW Department of Housing is contributing 20 per cent of the project cash funds. This is not considered commensurate with the outcomes that will be achieved on behalf of the NSW Department of Housing, as the project will also enhance the viability of public housing estates as places to live. It would be expected that the NSW State Government and the Fairfield City Council would be contributing more to this project.

3:2.46 DOTARS recommended partial funding of $10 000 on the basis that the Regional Partnerships contribution should be pegged to that provided by the State Government. One Minister signed the assessment as approved for full funding, noting: 'Believe we should fund full $25 000'. On 2 June 2006, the second Minister approved funding noting 'Or match Council $15 500.' On 8 June 2006, the third Minister approved funding noting 'Fund $15 500 + GST.'

3:2.47 It is the Ministerial Committee's normal process that, where one or more Ministers wish to discuss an application further or have a different perspective to other members, the application will be referred to a formal meeting of the Committee for consideration. Otherwise, most applications are considered by the Committee members out of session, with the departmental assessment and recommendation being passed between the Ministers' Offices for decision.[329] The approval records for this project held by DOTARS did not include any record of the first signing Minister altering his decision to agree to the lower funding amount.[330]

3:2.48 Similarly, RP02125 The Central Coast Cycling Guide was to develop a website and hardcopy cycling guide to promote the Central Coast region as a cycling destination to visitors. The Regional Partnerships funding bid of $7500 (plus GST) represented 50 per cent of cash and total costs. The other funding partners were the NSW Roads and Traffic Authority with $3000; Wyong Shire Council with $2000; Gosford City Council (the applicant) with $2000 and the Cycle Promotion Fund with $550. In not recommending funding, the department assessed the application as not satisfying the outcomes criterion or the partnerships and support criterion. In relation to partnerships and support, the department's December 2005 assessment advised the Ministerial Committee that:

> Partnership support for this project looks adequate, however the project fails to satisfy this criteria. Regional Partnerships funds are sought for items which are the normal core business activity of tourism authorities, councils, peak industry bodies and the private sector. Regional Partnerships is asked to be the major contributor to the project and the two Council's involved are minor contributors. The application states that the project will facilitate a means of supporting 14 bicycle shops and other tourism dependent businesses. As the project will directly benefit local tourism and retail outlets, a contribution from these stakeholders would be expected. Without contributions from relevant stakeholders, the Department considers that the project represents cost shifting.

3:2.49 The signed Minute covering the department's project assessment indicates that two members of the Ministerial Committee[331] agreed with the DOTARS' recommendation that the Committee not approve funding for the project as it failed to meet the partnerships and support criterion (no mention

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[329] In July 2007, the Ministerial Committee agreed to revised procedures under which project assessments are to be considered by each Minister concurrently, rather than consecutively.

[330] The processes undertaken in respect to the recording of the deliberations and decisions of Ministerial decision-makers, including the Ministerial Committee, under the Regional Partnerships Programme are discussed further in Part 2 of this audit report relating to Application Assessment and Approval Processes.

[331] The Minute was not passed to the third member of the Ministerial Committee for his consideration as the project was located in his electorate. The processes applied under the Regional Partnerships Programme in circumstances where an application relates to a project located in the electorate of a Ministerial decision-maker are discussed in Part 2 of this audit report relating to Application Assessment and Approval Processes.

being made of the assessment that the outcomes criterion had also been assessed as being not satisfied).

3:2.50 However, the Minutes of the Ministerial Committee meeting held on 15 February 2006 state that, at that meeting, the Committee approved funding of up to $7500 (plus GST) for this project.[332] The records of this meeting did not indicate the basis on which the Ministers came to a different conclusion from DOTARS concerning the merits of funding this project.[333]

3:2.51 Notwithstanding the above two examples in which the risks involved with Regional Partnerships being the single largest provider of cash to a project were explicitly recognised, this issue has not been consistently addressed in project assessments. For example, an application for funding for RP02438 Mamre Shed was submitted on 23 December 2005 by Mamre Plains Ltd, a non-profit organisation that delivers programmes to the disadvantaged. The application sought Regional Partnerships funding of $90 000 (plus GST) for a project to upgrade an existing large shed into three training rooms, a large community room and kitchen. The Regional Partnerships funding of $90 000 (plus GST) represented 50 per cent of cash and 41 per cent of total costs. The next highest cash contribution was the applicant with $40 000 (22 per cent of cash). The NSW Government contribution was only $10 000 (six per cent of cash funds). The assessment identified partnership funding as 'adequate with a good mix of government and non government funding partners'. At its 29 March 2006 meeting, the Ministerial Committee agreed with DOTARS' recommendation that funding be approved.[334]

3:2.52 Similarly, RP02264 Warren Horse N Rider Regional Centre was approved out of session by the Ministerial Committee[335] for $174 308 (plus GST) in Regional Partnerships funds. This project involved completing a multi-use equestrian centre. The Regional Partnerships funding bid represented

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[332] Letters from the then Minister for Transport and Regional Services dated 16 February 2006 advising of funding approval were sent to the applicant, the Chair of the Central Coast ACC and the local Federal Member.

[333] The issues that arise in circumstances where Ministerial decision-makers reach a funding decision that is different to that recommended by the department are discussed in Part 2 of this audit report relating to Application Assessment and Approval Processes.

[334] The Ministerial Committee attached two conditions to its approval of funding: confirmation of co-funding (which was a condition recommended by DOTARS); and subject to the building being available for use by other community groups.

[335] Minister Lloyd approved funding on 29 May 2006, Minister Nairn approved funding on 5 June 2006 and Mister Truss approved funding on 19 June 2006.

28 per cent of total costs, but 62 per cent of cash. The WA Government was contributing a total of $69 050 (through two agencies), representing 27 per cent of project cash funds. The applicant, a newly incorporated entity representing the four clubs involved, was contributing the remaining $15 000 in cash (six per cent of cash) and $10 000 in-kind. There were a number of minor in-kind contributions ranging in value between $12 500 and $1364. The substantive in-kind contribution was to be from Council relating to the provision of 25 000 cubic metres of soil, the labour and equipment required to move the soil to the project site, and the work required to restore the site from which the soil would be taken. DOTARS' assessment of the application against the partnerships and support criterion advised the Ministerial Committee that:

> Partnerships support for this project is considered to be good. All key partners expected to be involved in this project are represented and their contribution is considered appropriate to the benefit they will receive from the project**.** Both local and state government are represented in this project's partners.
>
> While Regional Partnerships represents a large proportion of cash contributions to this project, there is very strong support from a large number of partners providing in-kind contributions. The applicant is making both cash and in-kind contributions.

3:2.53 The project assessment provided to the Ministerial Committee did not address the relatively small contributions all partners apart from Council were making, relative to the Regional Partnerships Programme. In this respect, Council's in-kind contribution did not carry the same risk profile as the significant cash investment from Regional Partnerships, particularly given Council would maintain ownership of the site (including the equestrian facility). Nor did the departmental advice that contributions were appropriate to the benefit to be received appear consistent with the very minor contribution to the project's overall cost being made by the applicant.

3:2.54 From a risk management perspective, such circumstances could reasonably be expected to have led to active management of the partnership-related aspects of the Funding Agreements for these projects, given the important project financing role approved by the Ministerial decision-makers. However, as demonstrated by a number of the ANAO case studies, to date this has not been a consistent feature of the department's management of the Programme. On this issue, in June 2007, DOTARS advised ANAO that:

> As the ANAO has identified in [Figure 3:2.1] of this Chapter, the Regional Partnerships Guidelines state that, '<u>Generally</u>, a partnership contribution of at least 50 per cent is required… Commercial activities will *normally* require at

> least 60 per cent'. These percentages are not absolute but provide a guide. The agreed level of Government support is based on a consideration of the merits of each individual project and the appropriateness of the level of partner contributions given local circumstances. As stated in the Regional Partnerships Guidelines, the Ministerial Committee has the discretion to approve projects that are outside the general percentage contributions should they deem this appropriate. [*DOTARS emphasis*]

3:2.55 The flexibilities emphasised by DOTARS negate some of the benefits that were possible by clarifying in the revised Programme Guidelines how nominated partnerships contributions will be assessed (see paragraph 3:2.4).

3:2.56 In addition, in respect to partner funding, the 10 May 2007 delegation from the Ministerial Committee enabling DOTARS to approve minor variations requested by funding recipients after the Committee has approved Regional Partnerships funding for a project only operates in circumstances where the total level of partner contributions remains at or above the relevant percentage specified in the Regional Partnerships Programme Guidelines.

3:2.57 Accordingly, where Ministers approve funding for projects that involve partner contributions that do not meet these percentages, the department will only be able to approve changes in the level of partner funding that bring the project within the indicative percentages specified in the Programme Guidelines. Any changes, irrespective of how minor they may be, for projects approved with levels of partner funding outside the indicative percentages specified in the Programme Guidelines will have to be referred to the Committee for consideration, thereby diminishing the administrative benefits from the delegation of authority.

3:2.58 An updated revised Internal Procedures Manual provided to ANAO by DOTARS in October 2007 did not address this issue. Specifically, the updated Manual identifies those types of project variation requests in respect of which departmental officials hold a delegation and those that must be referred to the Ministerial Committee. The variations identified as being referred to the Committee include where requested budget adjustments:

> change partner funding which <u>results</u> in *Regional Partnerships* funding per cent being outside the guidelines assessment ratings. [*ANAO emphasis*]

3:2.59 The variation requests in respect of which departmental officials are identified as having a delegation to take decisions include requested budget adjustments that:

> reduce the level of partner funding where *Regional Partnerships* funding per cent <u>remains</u> within the guidelines assessment ratings.
>
> remove or substitute a partner where *Regional Partnerships* funding per cent <u>remains</u> within the guidelines assessment ratings. [*ANAO emphasis*]

3:2.60 However, the updated Internal Procedures Manual does not address situations in which the project as originally approved involved Regional Partnerships funding that was outside the guidelines assessment ratings and the funding recipient requests a further change to partner arrangements.

3:2.61 There is also scope to adopt a more direct approach to specifying the limit on the delegation as it relates to partnership contributions. Specifically, in the area of financial delegations, it is considered sound practice for any limitations applying to a delegation to be clearly identified in the instrument of delegation rather than, as in this instance, in published Programme Guidelines.[336]

Recommendation No.9

3:2.62 ANAO *recommends* that the Department of Transport and Regional Services strengthen the governance framework for the approval of minor variations to partnership funding arrangements for approved projects by:

(a) clarifying the extent of any delegation of authority in circumstances where Ministers have approved funding for projects that do not satisfy the indicative partner funding percentages specified in the Programme Guidelines; and

(b) seeking to obtain a revised delegation from the Ministerial Committee in which limits on the delegation are specified in the delegation instrument.

DOTARS response

3:2.63 Agreed.

Projects assessed as partially satisfying the criterion

3:2.64 The purpose of assessing projects against criteria is to inform decision-making. On the method and scale of rating projects, the ANAO Administration of Grants Better Practice Guide suggests that:

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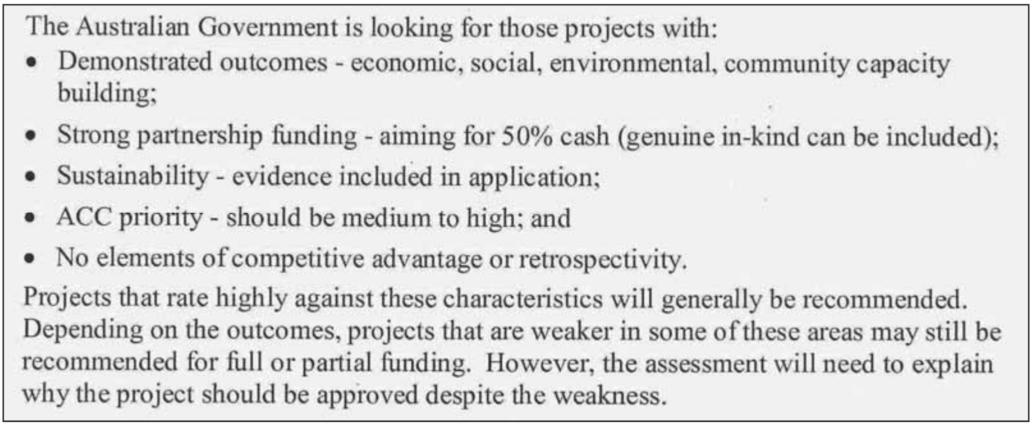
[336] See ANAO Audit Report No.42 2003–04, *Financial Delegations for the Expenditure of Public Monies in FMA Agencies*, Canberra, 16 April 2004, p. 11.

> The process should be able to effectively discriminate between projects of varying merit in terms of the selection criteria and the objectives of the program. Numerical rating scales have the advantage of being able to discriminate quite effectively between individual projects and classes of project. Scoring criterion using ordinal scales (i.e. High/Medium/Low) makes it inherently more difficult to arrive at an overall rating for each application. Furthermore, the use of ordinal scales usually results in fewer rating points with a greater number of projects in each rating point than with numerical scales. This can make it more difficult for decision-makers to differentiate the relative merits of projects within the same rating point.[337]

3:2.65 The September 2005 version of the Internal Procedures Manual introduced new guidance to assessors in respect to general assessment considerations (see Figure 3:2.5). This guidance was consistent with general practice in the assessment of projects in that it reflected that projects could be approved for full or partial funding, notwithstanding that they may have been assessed as not satisfying one or more of the Programme assessment criteria.

Figure 3:2.5

General assessment considerations: Internal Procedures Manual



The Australian Government is looking for those projects with:

- Demonstrated outcomes - economic, social, environmental, community capacity building;
- Strong partnership funding - aiming for 50% cash (genuine in-kind can be included);
- Sustainability - evidence included in application;
- ACC priority - should be medium to high; and
- No elements of competitive advantage or retrospectivity.

Projects that rate highly against these characteristics will generally be recommended. Depending on the outcomes, projects that are weaker in some of these areas may still be recommended for full or partial funding. However, the assessment will need to explain why the project should be approved despite the weakness.

Source: Internal Procedures Manual, September 2005, p. 71.

3:2.66 The majority of projects in the audit sample were assessed as satisfying, or not satisfying, the partnerships and support criterion. However, there were 29 projects assessed as partially satisfying the partnerships and support criterion. The concept of an assessment criterion being ‘partially satisfied’, the thresholds and/or factors that will apply in determining such an assessment,

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[337] ANAO Better Practice Guide—Administration of Grants, op. cit., p. 42.

and the impact a 'partially satisfied' assessment will have on the overall funding recommendation have not been articulated in any version of the documented Regional Partnerships procedures.

3:2.67 The practice of assessing projects as partially satisfying the partnerships and support criterion first developed in the months leading up to the calling of the 2004 Federal election. Specifically, prior to May 2004, no projects in ANAO's sample of 11 ACCs had been assessed as partially satisfying this criterion. Of the 29 projects that were assessed as partially satisfying the partnerships and support criterion between May 2004 and June 2006:

- two were recommended, and approved, for partial funding;
- the remaining 27 were not recommended for funding approval. Of these, four were approved for full funding with a further project being approved for partial funding.

3:2.68 The practice of assessing projects as partially satisfying the partnerships and support criterion has continued, with the most recent example in ANAO's sample occurring in June 2006 (the final month of decisions examined in the audit). This related to RP02713 Agnes Water—1770 Heritage & Recreational Pathway wherein $69 700 (plus GST) in Regional Partnerships funds was sought to assist with the costs of a project to construct an interpretative pathway. The department advised the Ministerial Committee that the Central Queensland ACC had recommended the project and rated it as a high priority for its region. The only Programme assessment criterion against which the department's assessment of the project did not identify concerns was applicant viability.[338] In respect to the remaining criteria, DOTARS' assessment was that:

- the outcomes criterion had not been satisfied because the majority of Regional Partnerships funds were to be used for concrete to construct a pathway that would provide safe infrastructure for walking, cycling and access to shops and service areas—which were seen as core Council responsibilities and therefore representing cost shifting;
- project viability was assessed as high risk given the State Government grant funding of $48 783 was required to be used by 30 June 2006 and the applicant had yet to be granted an extension, and the applicant had not budgeted for the next stage of the project; and

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[338] Due to the applicant being a Local Government Authority with experience in managing grant funding, applicant viability was assessed as being a low risk.

- in terms of partnerships and support, Regional Partnerships funding would only be appropriate if the State funding was realised—in the absence of State funding, the Regional Partnerships contribution would represent 58 per cent of total project costs with no assurance that the applicant would fill the gap in such circumstances. The department assessed the application as partially satisfying the partnerships and support criterion.

3:2.69 One member of the Ministerial Committee initially did not approve funding. Subsequently, at the 21 June 2006 meeting of the Ministerial Committee, all three members approved funding for this project.

3:2.70 The approved projects in ANAO's sample assessed as partially satisfying the partnerships and support criterion included two that were the subject of ANAO case studies. Specifically:

- the only parties contributing to RP00908 Lakes Creek Upgrade project were to be the Regional Partnerships Programme and the for-profit applicant. The applicant's nominated contribution included $638 630 in cash (52 per cent of project cash costs) with the Regional Partnerships Programme asked to contribute the remaining $600 000 (plus GST—48 per cent of project cash costs). DOTARS advised the then Parliamentary Secretary that the partner contributions were insufficient for a commercial venture of this nature, but nevertheless assessed that the partnerships and support criterion was 'partially satisfied'[339]; and
- the assessment against the partnerships and support criterion for RP01364 Country Homes and Cabins advised the then Parliamentary Secretary that the criterion had been 'partially satisfied'. The concern identified by the department was the absence of letters of support for the project from potential customers.

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[339] In June 2007, DOTARS advised ANAO that this related to the combined assessment against the partnerships and local support criteria, which are now assessed separately.

3:2.71 In June 2007, DOTARS advised ANAO that:

> The rating of 'partially meets the criterion' is no longer an option under the updated Procedures Manual. All criteria are required to be given a rating of either 'satisfies the criterion' or 'does not satisfy the criterion'.
>
> Where there are one or two elements of a checklist for which a negative response is identified, an assessment is to be made (and documented) that determines whether the issues can be clarified, mitigated against or would likely result in an unacceptable risk.

3:3 Assessing the Quantum of Partner Funding

One of the key features of the Regional Partnerships Programme is that applicants and their other project partners (if any) are expected to make a financial contribution to the cost of the project. This chapter examines DOTARS' practices in assessing the level of co-funding.

Introduction

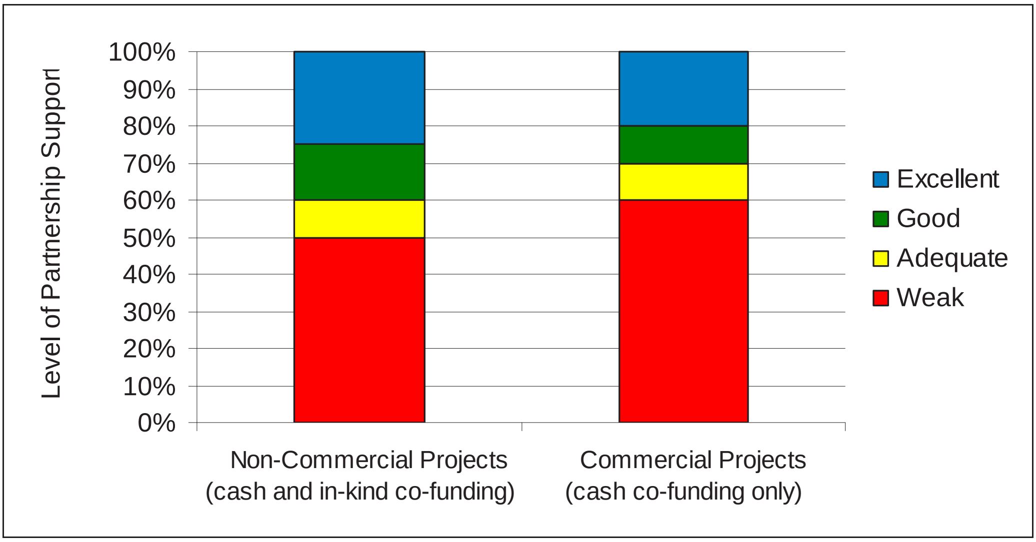
3:3.1 Since the commencement of the Programme, it has been commonplace (but not universal) for project assessments provided to Ministerial decision-makers to include a rating for the strength of partnerships support as weak, adequate, good or excellent (or some variation thereof).

3:3.2 From March 2004, DOTARS has had in place internal guidance to assessors on the level of co-funding that is expected, in order to assist in assessing Regional Partnerships applications in terms of the strength of partnerships support. However, until July 2006, no such guidance had been provided in the published Regional Partnerships Programme Guidelines to inform potential applicants and other interested parties of the Australian Government's expectations in this area. This was the position in respect to all applications examined by ANAO within the scope of this audit (being applications made between 1 July 2003 and 30 June 2006).

3:3.3 One of the enhancements included in the July 2006 version of the Programme Guidelines was the inclusion of explicit guidance on partner co-funding expectations. Specifically, the Programme Guidelines now advise applicants that, in assessing projects against the partnership funding criterion, different levels of co-funding are expected according to whether the project is commercial or non-commercial in nature (regardless of the type of entity making the application). This guidance is illustrated by Figure 3:3.1.

Figure 3:3.1

Expected levels of partnership support: assessment of applications—July 2006 Programme Guidelines



Source: ANAO analysis of Regional Partnerships Guidelines, July 2006.

3:3.4 The importance of the Programme Guidelines' co-funding expectations has recently been reaffirmed in changes announced to the administration of the Programme. Specifically, in May 2007, the Minister for Transport and Regional Services announced that:

> In response to delays being experienced where variations to approved projects have been required, the Ministerial Committee has delegated the responsibility for approving minor variations for approved projects to the department, provided that the total funding does not exceed the amount approved, that all funding conditions are met, and that partnerships remain within programme guideline limits.[340]
>
> These changes strike a balance between ensuring Ministerial involvement in decision-making, meeting audit requirements and speeding things up.[341]

3:3.5 The Minister also reiterated that ultimate responsibility for all project approval decisions remains with the Ministerial Committee. In this respect, in

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[340] As outlined at paragraph 3:1.12 of Chapter 3 in this part of the audit report, this delegation was made on 10 May 2007.

[341] The Hon Mark Vaile MP, Minister for Transport and Regional Services, *2007 Area Consultative Committees Conference*, op. cit.

the first three years of the Programme to 30 June 2006, Ministerial decision-makers approved full or partial funding in respect to 981 individual projects. In aggregate, Ministers approved $167.65 million in Regional Partnerships funding on the basis that those applicants and other project partners would contribute a total of $487.34 million in cash to these projects. This reflects an approved partner cash co-funding ratio of $2.91 for every dollar of Regional Partnerships funding that was approved.

3:3.6 Included in the projects approved by Ministers was RP01187 NSW Sugar JV Co-generation Project. For this project, the then Minister for Transport and Regional Services approved $10.8 million in Regional Partnerships funding, which is the largest grant approved under the Programme for a single project. DOTARS' July 2004 project assessment advised the then Minister that the project included secured cash co-funding of $82.3 million.[342]

3:3.7 Including this project in aggregate Programme partner co-funding analysis has a significant effect. Specifically, leaving aside this project, Ministers approved $156.85 million in Regional Partnerships funding on the basis that applicants and other project partners would contribute a total of $405.04 million in cash to these projects (representing a partner cash co-funding ration of $2.58 for every dollar of Regional Partnerships funding that was approved).

3:3.8 However, aggregate figures concerning total funding approvals and partner funding ratios do not reflect the important project financing role approved by the Ministerial decision-makers for many Regional Partnerships projects. In particular, as noted in Chapter 2 of this part of the audit report, it has been commonplace for Ministers to approve funding for projects where the application has proposed that the Regional Partnerships Programme be the single largest contributor of cash to the project.

Guidance to assessors

3:3.9 No guidance for assessors concerning the application of ratings for the strength of partnerships support for applications was included in the original, July 2003, version of the Internal Procedures Manual. In January 2004,

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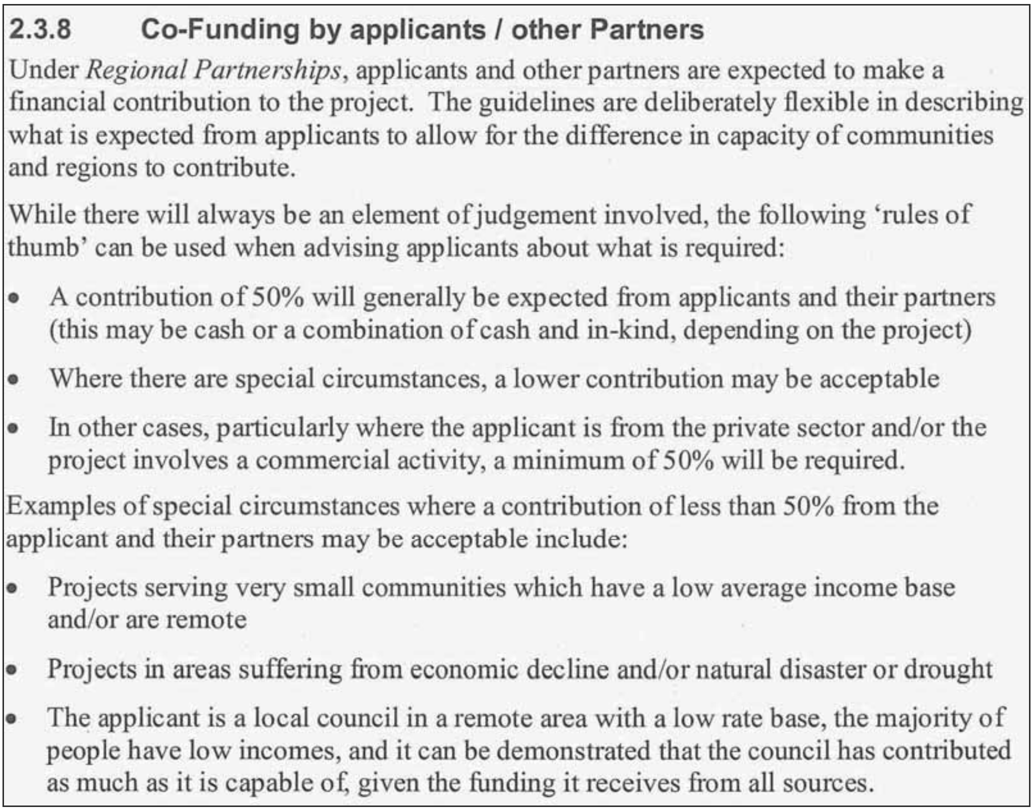
[342] The department further advised that the State Government (through Delta Energy) had committed to an additional component of the joint venture, worth $77.9 million, but this was not identified as co-funding for the project to which Regional Partnerships was to contribute. The project assessment also identified $7 million relating to an in-kind contribution from the applicant.

DOTARS decided to amend the Manual in relation to project eligibility and co-funding. The department considered that, as the changes involved clarifying the intention of the Programme Guidelines approved by Ministers rather than changing the Guidelines, Ministerial approval for the changes was not required.

3:3.10 In respect to co-funding, the department had developed 'rules of thumb' to use when advising applicants about the level of co-funding that would be required. These 'rules of thumb' were advised to Regional Office Managers in March 2004, with National Office advising the Regional Offices that they would be incorporated into the Internal Procedures Manual in time for the next release, due out at the end of April 2004. The next version of the Internal Procedures Manual was issued in June 2004, with co-funding guidance being included (see Figure 3:3.2).

Figure 3:3.2

Partnerships and support criterion: co-funding guidance to assessors—June 2004



2.3.8 Co-Funding by applicants / other Partners

Under *Regional Partnerships*, applicants and other partners are expected to make a financial contribution to the project. The guidelines are deliberately flexible in describing what is expected from applicants to allow for the difference in capacity of communities and regions to contribute.

While there will always be an element of judgement involved, the following 'rules of thumb' can be used when advising applicants about what is required:

- A contribution of 50% will generally be expected from applicants and their partners (this may be cash or a combination of cash and in-kind, depending on the project)
- Where there are special circumstances, a lower contribution may be acceptable
- In other cases, particularly where the applicant is from the private sector and/or the project involves a commercial activity, a minimum of 50% will be required.

Examples of special circumstances where a contribution of less than 50% from the applicant and their partners may be acceptable include:

- Projects serving very small communities which have a low average income base and/or are remote
- Projects in areas suffering from economic decline and/or natural disaster or drought
- The applicant is a local council in a remote area with a low rate base, the majority of people have low incomes, and it can be demonstrated that the council has contributed as much as it is capable of, given the funding it receives from all sources.

Source: DOTARS Internal Procedures Manual, June 2004, pp. 24 and 25.

3:3.11 The guidance illustrated by Figure 3:3.2 was also included in the September 2004 version of the Internal Procedures Manual. The only change made was to tighten the stated partnership funding expectation for projects where the applicant was from the private sector and/or the project involved a commercial activity. Specifically, whereas the June 2004 version of the Manual stated that a minimum of 50 per cent partner funding would be required, the September 2004 version stated that a minimum of 50 per cent to 70 per cent partner funding would be required for such projects.

3:3.12 No changes were made to this aspect of the February 2005 version of the Internal Procedures Manual.

3:3.13 The September 2005 version of the Internal Procedures Manual further revised this aspect of the guidance to assessors to state that a minimum partnership contribution of between 60 per cent and 70 per cent would be required for projects where the applicant was from the private sector and/or the project involved a commercial activity. In addition, to ensure greater consistency in assessment ratings, the September 2005 version also introduced quantified criteria for rating the strength of partnerships support (as weak, adequate, good or excellent).

3:3.14 As mentioned, the July 2006 Regional Partnerships Programme Guidelines included, for the first time, publicly available guidance on the rating of partnership contributions. The July 2006 Guidelines adopted a similar approach to that first explicitly included in the September 2005 Internal Procedures Manual. However, two key changes were made to the approach to be adopted for rating partnerships for commercial projects. Specifically:

- the July 2006 Guidelines stated that, for partnership contributions to a commercial project to be considered 'excellent', the project should have obtained cash co-funding of 80 per cent or more. By way of comparison, the September 2005 Internal Procedures Manual required that a commercial project have cash co-funding of 85 per cent or more before being considered 'excellent'; and
- the percentages of required co-funding for commercial projects (see Figure 3:3.1) were now to be assessed with respect to cash co-funding amounts only, with in-kind contributions to be excluded from this analysis. By way of comparison, all versions of the Internal Procedures Manual applicable to June 2007 indicated that assessments for both non-commercial and commercial projects would have regard to both

nominated cash and nominated in-kind contributions in assessing the adequacy of co-funding.

3:3.15 The changes included in the July 2006 Programme Guidelines were reflected in the draft of the revised Internal Procedures Manual provided by DOTARS to ANAO in May and June 2007.

3:3.16 The approach outlined in the July 2006 Programme Guidelines of assessing the quantum of partner co-funding for commercial projects against minimum requirements by excluding nominated in-kind contributions may be expected to result in fewer commercial projects being assessed as meeting the partnerships and support criterion. This is because practices were previously inconsistent with respect to the consideration of the level of cash support expected for commercial projects.

3:3.17 For example, in respect to RP01319 A2 Milk Processing (one of the projects case studied by the Senate Committee), DOTARS' 27 August 2004 project assessment provided to the then Parliamentary Secretary advised that:

> Partnership support for this project is considered to be low from a cash contribution perspective for a private sector project. However, the community benefits appear substantial enough to warrant accepting less than 60-70 per cent co-funding normally sought for a commercial project.

3:3.18 Two of the ANAO case studies involved commercial projects where the level of cash co-funding was well below the 60 per cent to 70 per cent range referred to in the assessment of the A2 Milk Processing project. Specifically:

- RP01365 Undercarriage Remanufacture Facility for which partnerships support was assessed by DOTARS in February 2005 as 'strong' on the basis that the applicant was contributing $524 708 cash and $143 000 in-kind together with two proposed substantial (private enterprise) in-kind contributions totalling $750 000. On the basis of the contributions nominated in the application, DOTARS assessed that, in aggregate, the Regional Partnerships Programme was being asked to contribute 26 per cent of total project costs. By way of comparison, excluding the $893 000 relating to in-kind contributions (as is now advocated by the Programme Guidelines for commercial projects) results in the partner co-funding percentage falling from 74 per cent to 51 per cent. The current Programme Guidelines state that partnerships support for commercial projects with this level of cash co-funding will be assessed as 'weak', with the September 2005 Internal Procedures Manual stating that such projects did not satisfy the partnership and support criterion; and

- RP00622 Jarrahdale Heritage Park, for which partnerships support was assessed as ‘strong’. The May 2004 project assessment advised the then Parliamentary Secretary that the Regional Partnerships bid of $760 800 represented 25 per cent of total project costs (which were assessed as $3 021 687). The total project costs identified in the application included $1 568 300 of nominated in-kind contributions. Excluding these contributions (as is now advocated by the Programme Guidelines for a project involving commercial activity), results in the partner co-funding falling from 75 per cent to 48 per cent. The current Programme Guidelines state that partnerships support for commercial projects with this level of cash co-funding will be assessed as ‘weak’, with the September 2005 Internal Procedures Manual stating that such projects did not satisfy the partnerships and support criterion.

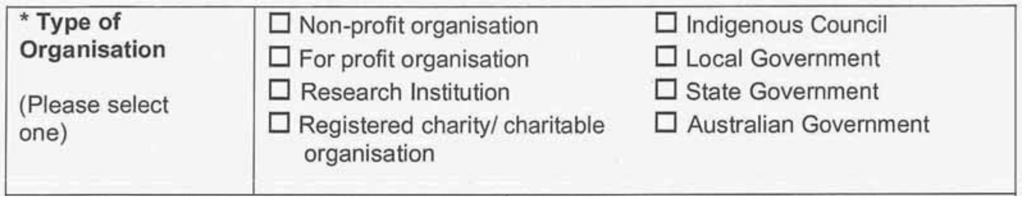
3:3.19 The change made to the Programme Guidelines to explicitly exclude nominated in-kind contributions for commercial projects from assessments of the quantum of required partner co-funding should assist to improve the rigour and reliability of DOTARS’ assessment of such projects. Specifically, ANAO’s case studies of each of the two projects outlined at paragraph 3:3.18, and of a number of other projects, demonstrated that the department has had difficulty in consistently and accurately verifying and appropriately valuing nominated in-kind contributions.

Identifying commercial and non-commercial projects

3:3.20 The Regional Partnerships application form in place at the time of audit fieldwork required applicants to categorise their organisation type (see Figure 3:3.3).

Figure 3:3.3

Applicant categorisation of their organisation type



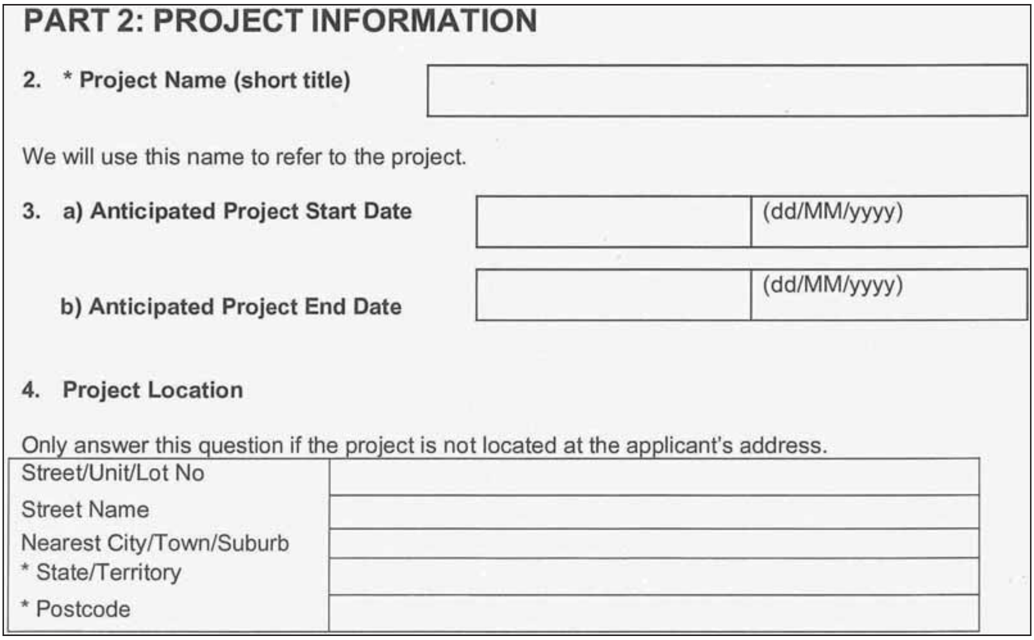
*** Type of Organisation** (Please select one)	☐ Non-profit organisation ☐ For profit organisation ☐ Research Institution ☐ Registered charity/ charitable organisation	☐ Indigenous Council ☐ Local Government ☐ State Government ☐ Australian Government

Source: Regional Partnerships application forms, March 2006 version, p. 3.

3:3.21 Applicants were also required to provide information on the project (see Figure 3:3.4).

Figure 3:3.4

Project information required from applicants



PART 2: PROJECT INFORMATION

2. * Project Name (short title)

We will use this name to refer to the project.

3. a) Anticipated Project Start Date (dd/MM/yyyy)

b) Anticipated Project End Date (dd/MM/yyyy)

4. Project Location

Only answer this question if the project is not located at the applicant's address.

Street/Unit/Lot No
Street Name
Nearest City/Town/Suburb
* State/Territory
* Postcode

Source: Regional Partnerships application forms, March 2006 version, p. 4.

3:3.22 However, applicants were not required to categorise their project in terms of whether it was commercial or non-commercial in nature. Further in this respect, whilst the Internal Procedures Manual had, since June 2004, specified separate partnership expectations for non-commercial projects compared to the minimum required level of partnership funding for commercial projects, the Internal Procedures Manual had not required assessors to explicitly identify whether the project being assessed was either a commercial or non-commercial project.

3:3.23 In terms of determining the type of project being assessed, each version of the Internal Procedures Manual had included the following definition:

> **COMMERCIAL PROJECTS**
>
> A commercial project is one in which an objective of the project is to make a profit.

3:3.24 Similarly, the July 2006 Regional Partnerships Programme Guidelines included, for the first time, a definition of ‘commercial environment’ as follows:

> A project operates in a commercial environment if its financial transactions result in profits to the applicant.

3:3.25 The revised Internal Procedures Manual provided to ANAO by DOTARS in June 2007 stated that:

> A project is defined as operating in a commercial environment where:
>
> - the financial transactions result in profits to the applicant
> - its activities could be profitable to the applicant
> - they could be conducted for profit by another business.

3:3.26 These definitions of commerciality are quite narrow. Specifically, a project can be commercial in nature in that it will operate in the marketplace seeking to generate revenue through the receipt of commercially-based fees or other charges, but that these revenues may be insufficient to result in an overall profit.

3:3.27 For example, RP00622 Jarrahdale Heritage Park, mentioned at paragraph 3:3.18, involved a Local Government Authority developing a tourism park. At the time Regional Partnerships funding was sought, this project was said to be part of an overall development estimated to cost approximately $12.5 million when finished, of which half was intended to be provided by the private sector. The construction of the Park was intended to provide economic benefits to the local Shire by way of increased direct expenditure in the community through construction of the Park and increased tourist patronage to the area. However, the sustainability of the Park was not linked to direct revenue generation from the Park. Instead, the proponent (the

Shire of Serpentine-Jarrahdale) was to fund ongoing maintenance and operating costs.[343]

3:3.28 In this respect, notwithstanding the definitions adopted in each version of the Internal Procedures Manual and the most recent version of the Programme Guidelines, a broader definition of commercial projects has been used by DOTARS in its assessment of some applications for funding. For example, in assessing the application for Regional Partnerships funds of $332 000 (43 per cent of total project costs of $780 000) in relation to RP02563 MHRC Workshop and Training Facility involving construction of a new purpose built workshop and training facility at the Marthakal Homelands Resource Centre, DOTARS advised the Ministerial Committee in March 2006 that:

> When considered as a project operating in a commercial environment partnership support for this project could have been stronger. However, it is considered appropriate given the remoteness and ability of the applicant to fund this project and other contributions.

3:3.29 Implementing the definitions of commercial activity set out in the current Internal Procedures Manual and Programme Guidelines would mean that a project that expected to generate revenue and operate profitably would be expected to provide a greater level of partner co-funding than a project that expected to generate commercial revenue but operate at a loss. The merits of expecting a greater level of co-funding for projects expected to generate profits for the proponent are recognised in the ANAO Administration of Grants Better Practice Guide which comments as follows on this issue:

> grant administrators should consider whether the mix of public or private benefits resulting from the funding is appropriate. An assessment of the private and public benefit as part of the appraisal of applications will minimise the risks of inappropriate or unintended outcomes.[344]

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[343] On 28 August 2007, DOTARS advised the Ministerial Committee that: ‘A Funding Agreement was executed on 1 October 2004 and payments totalling $340 450 (GST inclusive) have been made. Work on the project has been slow and has now stalled, and following a round of consultation with parties involved in the project, the Department has concluded that the original project scope is no longer achievable, without further funding…To date *Regional Partnerships* has contributed to one pedestrian bridge, extensive walking trails and one section of road…’ On 19 September 2007, the Ministerial Committee agreed to a departmental recommendation that it agree to reducing the scope of the project to the work already completed, obtaining a full acquittal of Regional Partnerships funds for the components completed to date and terminating the Funding Agreement. The Shire funding recipient was to be advised of the decision by DOTARS and invited to submit an application for the remaining activities.

[344] ANAO Better Practice Guide—Administration of Grants, op. cit., paragraph 2.17, p. 9.

3:3.30 This guidance reflects the fact that government grants are a valuable source of funding to for-profit organisations. This is because obtaining grant funding increases after tax cash flows to the funding recipient, without the recipient being required to pay a return on those funds.[345]

3:3.31 Notwithstanding this, however, accepting reduced partnership contributions from commercial activities expected to operate at a loss implicitly involves the Regional Partnerships Programme accepting, through the partnership arrangements, a higher risk exposure to the sustainability of the expected outcomes. Specifically, commercial projects that are not expected to be self-sustaining involve an increased level of viability risk (in that they must necessarily rely on non-project revenue to be viable). However, this inter-relationship between the partnerships criterion and the project viability criterion has not been explicitly addressed by the department in the documented assessment procedures for the Programme.

3:3.32 In the above context, in July 2007, DOTARS advised ANAO that:

> The department had updated the Internal Procedures Manual to broaden the definition of commercial. The department is also seeking from the Ministerial Committee [*approval*] to adopt a similar change to the Regional Partnerships Guidelines.

3:3.33 DOTARS further advised ANAO that the updated application form requires applicants to identify, in their application, whether the project involves a commercial activity.

Assessed levels of co-funding for non-commercial projects

3:3.34 As noted, the four versions of the Internal Procedures Manual issued between June 2004 and September 2005 specified that a contribution of 50 per cent of total project costs (cash and in-kind) would generally be expected from applicants and their partners. As outlined at paragraphs 3:3.9 and 3:3.10, the inclusion of this guidance in the Internal Procedures Manual was intended to clarify an existing departmental interpretation of the Programme Guidelines that had been in place since July 2003.

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[345] By obtaining Regional Partnerships funding, the recipient is able to reduce its own contribution to the project (that would have been funded either by equity or through debt) thereby reducing its outgoings, with the additional benefit of incoming cash flows (with no required rate of return) at an early stage of the project.

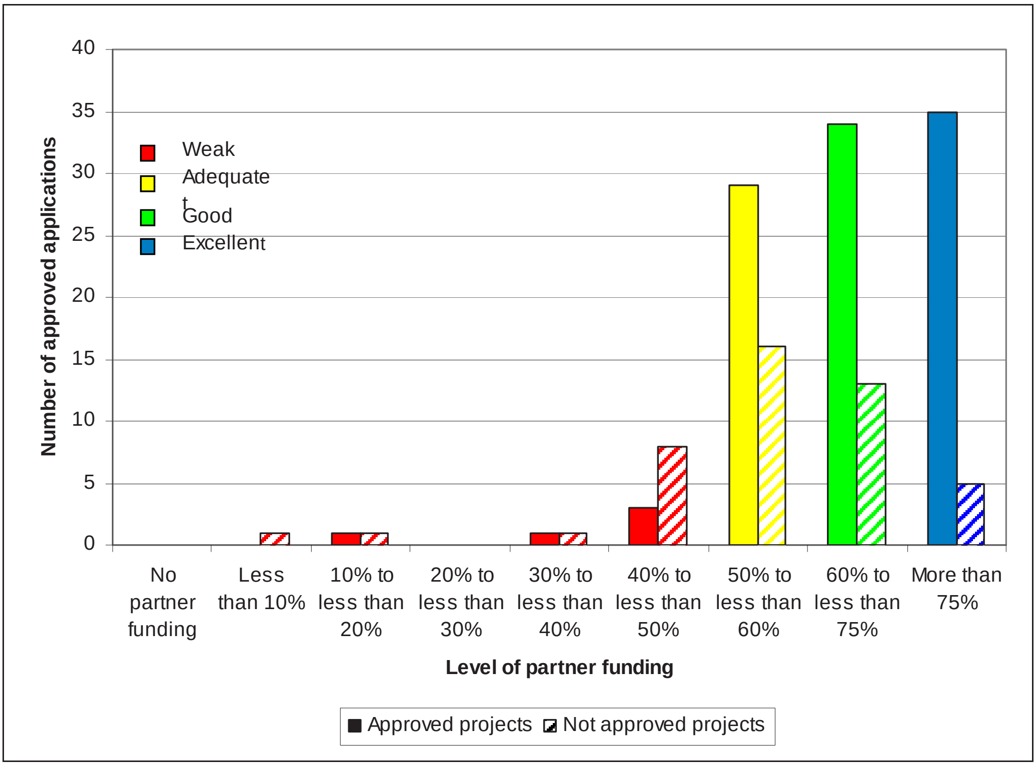
3:3.35 Each version of the Internal Procedures Manual issued between June 2004 and September 2005 explicitly permitted exceptions to this expectation where:

- the project would be serving very small communities that have a low average income base and/or are remote;
- the project is in an area suffering from economic decline and/or natural disaster or drought; and/or
- the applicant is a local council in a remote area with a low rate base, the majority of people have low incomes, and it can be demonstrated that the council has contributed as much as it is capable of, given the funding it receives from all sources.

3:3.36 As illustrated by Figure 3:3.5, 95 per cent of non-commercial projects approved for funding in the sample of 11 ACCs examined by ANAO involved adequate, good or excellent levels of partnership co-funding either through cash contributions or genuine in-kind contributions. In other words, there were five non-commercial projects in the audit sample that were approved for funding where the level of assessed partnership contributions was less than the 50 per cent minimum.

Figure 3:3.5

Partnership support for non-commercial projects in the audit sample



Source: ANAO analysis of DOTARS project assessments provided to the Ministerial decision-maker.

3:3.37 In four of the five instances in the audit sample where funding was approved for a non-commercial project notwithstanding a weak level of partner co-funding, DOTARS advised the Ministerial decision-maker that the partnerships and support criterion had been satisfied. In two of these instances, the project met the exception tests outlined in the Internal Procedures Manual. The other two recommended and approved projects did not satisfy the exception tests outlined in the Internal Procedures Manual. However, in neither instance was the 50 per cent expectation breached by a significant extent.

3:3.38 In the fifth instance in the audit sample where funding was approved notwithstanding a 'weak' level of partner co-funding, DOTARS had recommended that funding not be approved. This related to RP01354 Golden Grove Church Redevelopment. The application for this project sought $170 000 (plus GST) in Regional Partnerships funding for a project to extend and refurbish the Golden Grove Uniting Church in the Adelaide Metropolitan ACC by upgrading the kitchen and toilet facilities and adding a meeting room with office facilities. The Regional Partnerships funding represented 82 per cent of total project costs.[346] In this respect, DOTARS advised the then Parliamentary Secretary that:

> Partnerships support for this project is considered to be poor. The applicant is only contributing 16 per cent of total project costs. The applicant's in-kind contribution represents 100 hours of project management valued at $30/hour.

3:3.39 The project was assessed as satisfying the outcomes and applicant viability criteria, but was assessed as a high project viability risk and as not satisfying the project viability criterion.[347] The then Parliamentary Secretary was also advised that the Adelaide Metropolitan ACC had recommended the project but rated it as a low priority for its region.

3:3.40 On 22 October 2004, the then Parliamentary Secretary approved funding for this project, documenting her reasoning as follows:

> This Church group are contributing substantial in-kind in terms of land, buildings, infrastructure. On the condition that the Church make [*the*] upgraded facilities available to the wider community on reasonable terms and reasonable access, I believe the application has social merit.

3:3.41 The Funding Agreement was signed on 21 April 2005. It was not entered into with the applicant, as the applicant was not a legal entity (this issue was not identified by DOTARS in its assessment of the project). Instead, the Funding Agreement was entered into with the Uniting Church in Australia Property Trust (S.A.). Having regard to the condition on funding approval specified by the then Parliamentary Secretary, the Funding Agreement included a pre-condition on the first instalment payment of $50 000 (plus GST) that the Church make the upgraded facilities available to the wider community on reasonable terms and with reasonable access. The first instalment was processed for payment on 3 May 2005. The only evidence obtained by DOTARS in respect to the pre-condition was an 18 April 2005 letter from the entity that signed the Funding Agreement stating, in part, that:

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[346] The assessed partner contributions comprised $30 000 cash from the applicant (Golden Grove Uniting Church) and in-kind contributions from the applicant ($3000) and the local Council ($5000) relating to heritage planning assistance that the project assessment stated had not yet been confirmed.

[347] Reasons given for this assessment in the project assessment were the absence of a cost breakdown of the building budget and supporting quotes; the absence of a clear path to sustainability due to an absence of evidence of demand from the community for use of the facility outside the congregation; and the absence of a business/marketing plan that outlined maintenance costs.

> In accordance with the terms of the Agreement, the upgrade of the Golden Grove Uniting Church will improve functionality and provide a compliant facility which we are confident will assist in the growth within the congregation and increase the opportunity of use by community groups.

3:3.42 DOTARS took a more active approach to enforcing such funding conditions for some other projects in the audit sample. For example, RP01864 Tuckshop Catering Outlet at the Dirranbandi P-10 State was approved by the then Minister in September 2005 on the condition that the facilities be available for other than school purposes. Similar to RP01354 Golden Grove Church Redevelopment, this condition was included in the Funding Agreement as a pre-condition for the first instalment payment. In addition:

- the first milestone included provision of a letter from the school principal acknowledging and accepting the condition on which funding was approved; and
- the first project outcome also included provision of a letter from the school principal acknowledging and accepting the condition on which funding was approved.

3:3.43 The necessary letter was provided by the principal prior to the first instalment being paid. This letter stated that:

> I understand and acknowledge that the following funding condition exists. The tuckshop facility will be available for organizations in the Dirranbandi community to use. Organisations will be required to make an application for use through the Dirranbandi P&C Association and or the Dirranbandi P-10 State School. Organisations will be required to have adequate insurance and a list of workers/participants will need to be kept.
>
> Stage One of the Catering Facility was officially opened this week and the community was advised that the tuckshop is available for community.

Assessed levels of co-funding for commercial projects

3:3.44 As noted, partnership funding for non-commercial projects has been subject to a consistent expectation that applicants and their partners would contribute at least 50 per cent of total project costs (cash and in-kind). Similarly, until the July 2006 version of the Programme Guidelines was issued, partner co-funding for non-commercial projects was to be assessed in relation to total project costs (cash and in-kind). However, a different approach was to be taken for commercial projects in respect to a minimum required level of partner co-funding being specified (rather than an expectation). In addition, this minimum level has varied over time.

3:3.45 In this context, Table 3:3.1 demonstrates that in the sample examined by ANAO, it had been common for DOTARS' project assessments to advise Ministers that the partnerships and support criterion had been satisfied notwithstanding that the level of partner funding was below the minimum level for commercial projects set out in the applicable Internal Procedures Manual. Such circumstances will present challenges for the department in terms of the delegation recently announced for the department to approve minor variations for approved projects, providing that (amongst other things) partnerships remain within Programme Guideline limits (see paragraph 3:3.4). Specifically, where Ministers approve for funding projects for which partners are providing less than 60 per cent of project cash costs, the only circumstances in which DOTARS will be able to legitimately agree to any changes in the partner funding arrangements are where additional partner funding is obtained that brings partner funding above the 60 per cent threshold.

Table 3:3.1

Assessment of partner co-funding for commercial projects in the audit sample: 1 July 2003 to 30 June 2006

Period in which DOTARS assessment was completed	Co-funding minimum requirement as per Internal Procedures Manual (cash and in-kind)	Number of projects assessed in period	Number of projects that failed the minimum requirement	Projects that failed minimum requirement that were rated as not satisfying the partnerships and support criterion	
				Number	**Per cent**
1 July 03[A] to 31 Aug 04	50 per cent	47	8	3	38%
1 Sep 04 to 31 Aug 05	50 per cent to 70 per cent[B]	51			
	• 50 per cent		7	3	43%
	• 70 per cent		26	8	31%
1 Sep 05 onwards	60 per cent	32	10	4	40%

Note:

[A] See paragraphs 3:3.9 and 3:3.10.

[B] As the minimum requirement was expressed in the applicable Internal Procedures Manual as a range, ANAO examined the extent to which projects complied with the co-funding requirement from the perspective of both the lowest and highest points of the specified range for minimum co-funding.

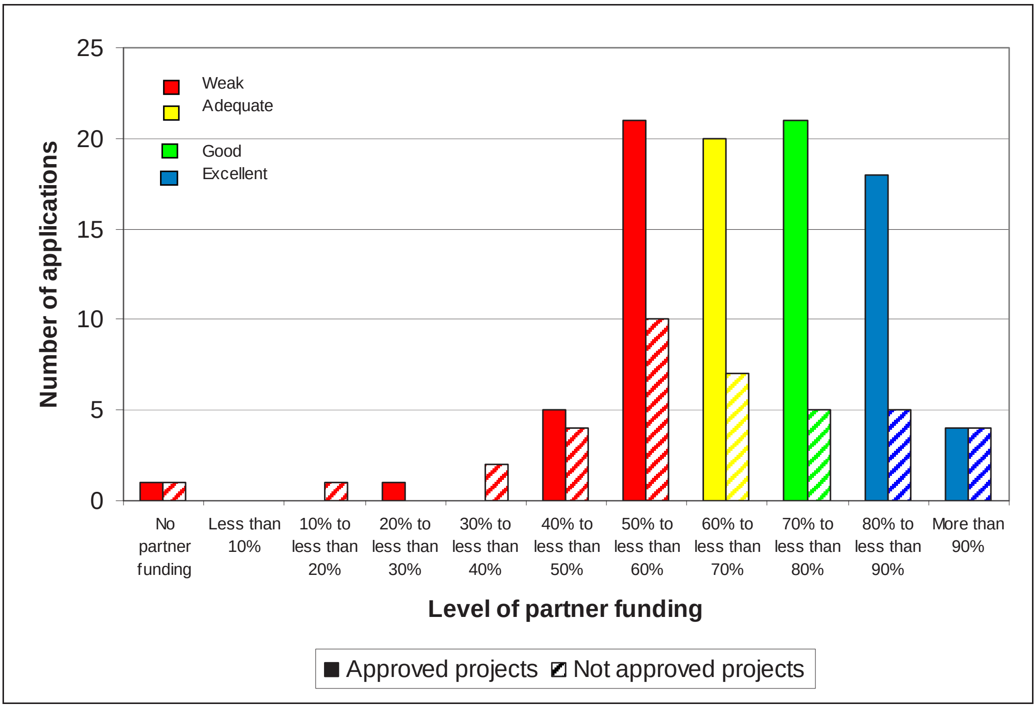
Source: ANAO analysis of Internal Procedures Manuals and DOTARS project assessments provided to the Ministerial decision-maker.

3:3.46 As outlined in Table 3:3.1, between September 2004 and August 2005, the minimum co-funding requirement identified in the applicable Internal Procedures Manual was expressed as a range. This approach, without some specification of parameters to guide its application, was not conducive to consistency in assessing whether commercial projects included sufficient co-funding. In this respect, the Internal Procedures Manual did not include any guidance on how commercial projects with co-funding between 50 per cent and 70 per cent were to be assessed. In the absence of this guidance, ANAO's analysis represented in Table 3:3.1 examined the extent to which projects complied with both the lowest and highest points of the specified range for minimum co-funding.

3:3.47 In respect to the approved projects in ANAO's sample, Ministerial decision-makers had approved the Regional Partnerships Programme contributing between 4.1 per cent and 100 per cent of project cash costs for an individual project. In this context, as illustrated by Figure 3:3.6, the shortcomings in departmental assessments of the level of partner funding against the standards specified in the Internal Procedures Manual was reflected in 42 per cent of commercial projects in ANAO's sample that were approved for Regional Partnerships funding having a 'weak' amount of co-funding (in that the applicant and other partners were contributing less than 60 per cent of project cash costs).

Figure 3:3.6

Partnership support for commercial projects in the audit sample



Source: ANAO analysis of DOTARS project assessments provided to the Ministerial decision-maker.

No partner co-funding

3:3.48 In the first three years of the Programme to 30 June 2006, there were 25 projects approved for funding where DOTARS' project assessment advised Ministers that Regional Partnerships funding represented the only cash contribution for the project. Two of these projects were included in ANAO's audit sample.

3:3.49 The first such project was RP00842 Fairbridge Village Redevelopment. On 2 July 2004, the then Parliamentary Secretary had agreed to DOTARS' recommendation that funding of $1 307 000 (plus GST)[348] be approved for that project. In terms of partnerships, the project assessment provided to the then Parliamentary Secretary advised that, notwithstanding that the proposed Australian Government contributions would fully fund Stage 6, the partnerships and support criterion had been satisfied on the basis that:

> The Regional Partnerships bid of $1 307 000 represents 65 per cent of the total cost of this stage of the redevelopment of Fairbridge Village. The balance of cash required for the project, $693 000, will come from the Department of Industry, Tourism and Resources (DITR)—this funding is yet to be confirmed. The Prime Minister's Office has supported the applicant through its efforts to coordinate and facilitate the provision of a total of $2 million in Australian Government funding.
>
> The contributions being sought from Regional Partnerships and DITR need to be viewed in the context of the total 10-year Fairbridge Redevelopment Program, the full cost of which is estimated to be $10.7 million. Approximately $7.5 million of this amount has already been secured, with major contributors being the Australian Government ($2 million), the Western Australian Government ($1.5 million), Alcoa World Alumina Australia ($1.3 million), the Freemasons Lodge of Western Australia ($500 000), Wesfarmers Ltd ($500 000) and United Group Ltd ($200 000).
>
> Viewed in the context of the whole Fairbridge Village redevelopment project, at a total cost of $10.7 million, the Regional Partnerships bid represents 12 per cent of this amount. When combined with DITR's $693 000 for this current stage of the project and the $2 million previously provided from Australian Government sources, this would make the Australian Government's total contribution to the redevelopment of Fairbridge Village $4 million, or 37 per cent. For a project of this scale and national heritage significance, which already has proven to be a tremendous success, this is considered a fair and reasonable contribution by the Australian Government.

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[348] Following discussions aimed at coordinating a request from the applicant for Australian Government funding of $2 000 000 for Stage 6 of a wider redevelopment project, the March 2004 Regional Partnerships application had sought $559 000, with other funds for Stage 6 expected to come from the Commonwealth Department of the Environment and Heritage (DEH—$550 000) and the Commonwealth Department of Industry, Tourism and Resources (DITR—$891 000). As the amount being sought from DITR was higher than its funding programmes allowed, the Regional Partnerships bid was increased in May 2005 to $834 000, with DITR then expected to contribute $693 000 through the Australian Tourism Development Programme and DEH $473 000 through the Cultural Heritage Projects Programme. The amount sought from the Regional Partnerships Programme was further increased in June 2004 (to $1 307 000), as a result of advice to the applicant about the timeframes for obtaining funds through DEH.

3:3.50 Regional Partnerships funding was approved in July 2004 subject to two conditions, one of which related to confirmation of the DITR contribution of $693 000. In September 2004, the applicant requested that this condition be waived, as it had been unsuccessful in its application for the DITR funding.[349] The then Parliamentary Secretary agreed to a DOTARS recommendation that the approval condition be 'varied' to allow Regional Partnerships funding to proceed without DITR funding, on the basis of DOTARS advice that:

> We understand that this project has an excellent chance of being funded in the next round of Australian Tourism Development Programme grants, however they need Regional Partnerships funding to commence Stage 6 of the $10.7 million Fairbridge Redevelopment Project or they will have to release the current work force until a decision is made in December. The independent financial viability and project sustainability assessments are satisfactory without this funding and varying the conditions is recommended.[350]

3:3.51 The Regional Partnerships Funding Agreement signed on 29 October 2004 specified that the Regional Partnerships Programme would make a cash contribution of $1 307 000 (plus GST) and that the applicant/other funding partner cash contributions section of the budget was 'not applicable'.

3:3.52 Subsequently, as part of the 2005–06 Budget Process, $1 million in funding was reallocated from Tourism Australia's Domestic and Regional Program to DITR's Tourism Division to fund three election commitments, including $693 000 for Stage 6 of the Fairbridge Village redevelopment.

3:3.53 The second project in the audit sample that involved a commercial project with no cash funding from the applicant or other project partners was RP00833 Christmas Island Mobile Upgrade Project. The April 2004 project assessment advised the then Parliamentary Secretary that the Regional Partnerships Programme bid of $2 500 000 (plus GST) represented the only cash contribution to the project, with Telstra Corporation Ltd to make an in-kind contribution of $800 000. This project was assessed and approved for funding under the SONA procedures.

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[349] The applicant proposed to excise those components of the project to which the DITR funding was to be applied, on the expectation that funding would be forthcoming from other programmes of a nature more specifically related to the nature of the work involved.

[350] As outlined in Chapter 3 of Part 4 of this audit report, the other approval condition related to satisfactory independent financial and project viability assessments, to be arranged by DOTARS. Initial advice to ANAO from the DOTARS Regional Office was that this condition had been waived. Later advice from National Office was that the condition had been satisfied by review of various reports that had been considered as part of the project assessment, but that no record of the then Parliamentary Secretary's agreement to this was able to be located.

Recommended and approved projects that failed the quantum test

3:3.54 As outlined in Table 3:3.1, there were a number of projects in the audit sample that were approved for Regional Partnerships funding notwithstanding that the level of partnership co-funding was below the minimum specified in the applicable Internal Procedures Manual. For example, in its October 2005 assessment of RP01968 Mount Benson Regional Wine and Tourism Centre, DOTARS advised the then Minister that the project satisfied all Programme criteria, including the partnerships and support criterion. In terms of that criterion, the Regional Partnerships funding bid of $83 153 (plus GST) represented 58 per cent of cash costs and 45 per cent of total project costs.

3:3.55 The then Minister was advised that the project would strengthen growth and opportunities through increased economic, employment and social opportunities in the region. This was to be achieved by refurbishing the local hall into a multi-function centre to include:

> - a retail area for local products including promotion of wine tourism in the Mount Benson Wine Region;
> - an historic interpretation and display, and tourist information;
> - a community meeting and function venue;
> - conference and training facilities; and
> - a wayside stop for tourists and public access toilets.
>
> The unique roll-away Cellar Door Sales facility will enable the hall to have a regular income creating an estimated 2.3 FTE [*Full Time Equivalent*] jobs, plus be able to be utilised for a variety of other uses.
>
> The creation of the cellar door sales facility will assist Mount Benson to become a wine region in its own right further increasing the profile of the region.

3:3.56 The project plan attached to the Regional Partnerships application stated that the hall is owned by the community and managed by an incorporated association. This plan also evidenced the commercial aspects of the project, addressing sources of income (retail area lease and venue hire), competitors and relationships with other businesses, target markets and customer profile, marketing and a pricing schedule for venue hire. The project plan also included an operational budget for the first three years following completion of the project. This budget forecast a profit in the first year, growing in the second and third years.

3:3.57 In this context, the project should have been assessed as a commercial project. The then applicable (September 2005) Internal Procedures Manual stated that, where the applicant was from the private sector and/or the project involved a commercial activity, a minimum of 60 per cent to 70 per cent of project cash costs would be required from project partners. As the Regional Partnerships bid represented 58 per cent of cash costs, project partners were only contributing 42 per cent of project cash costs, well below the minimum required of at least 60 per cent. This was not advised to the then Minister in the project assessment.

3:3.58 Further examples in the audit sample were:

- RP00965 Longreach Saleyards Upgrade, which was assessed by DOTARS as satisfying the partnerships and support criterion notwithstanding that total partner co-funding constituted 48 per cent of the project cash budget, with the Regional Partnerships Programme contributing the majority (52 per cent) of project cash costs. DOTARS' August 2004 project assessment was that the partnerships and support criterion had been satisfied as 'partnerships for this project is considered adequate as the costs of this Stage 1 of the upgrade will be equally shared between the applicant and Regional Partnerships.' Funding was recommended by the department and approved by the then Parliamentary Secretary; and
- RP02458 Illawarra Light Railway Expansion and Commercialisation project where the partnership contributions from the applicant represented 47 per cent of cash funding with the Regional Partnerships Programme asked to fund 53 per cent of the project cash costs of $29 000 (plus GST). The then applicable Internal Procedures Manual required that partnerships support for such an application be assessed as 'weak' and as not satisfying the criterion. However, in its March 2006 assessment DOTARS advised the Ministerial Committee that partnership support for the project was 'adequate' and that the partnerships and support criterion had been satisfied. The Ministerial Committee approved funding for the project.

Projects that did not satisfy the quantum test and were not recommended by the department but were approved for funding by the Ministerial decision-maker

3:3.59 In the role of an approver of spending proposals, Ministerial decision-makers are entitled to reach a different decision on applications for Regional

Partnerships funding to that recommended by DOTARS. In this respect, as noted by ANAO Audit Report No.39 2006–07:

> In those cases where the Minister decides to fund an organisation whose application has not been recommended for funding by the department, based on the outcome of the appraisal process, FMA Regulation 9 requires the Minister to undertake his/her own reasonable inquiries that the particular spending proposal will make efficient and effective use of the public money.
>
> In addition to these legal obligations under the FMA Regulations, it is sound practice for the Minister to document the reasons why he/she reached a different decision to that recommended by the department. This aids programme transparency and public accountability.[351]

3:3.60 In this context, there was one commercial project in the audit sample that failed the quantum co-funding test set out in the applicable Internal Procedures Manual (where one had been articulated) and was not recommended for funding by the department but which was, nonetheless, approved for funding.[352]

3:3.61 Specifically, RP02398 Investigator Incursion Program involved the Investigator Science and Technology Centre (a non-profit organisation located in Adelaide) seeking $165 000 (plus GST) in Regional Partnerships funds for a project aimed at enabling it to take its science, technology and engineering programs to schools throughout South Australia. The project was to do this by purchasing and fitting out vans, purchasing computer equipment and funding the development of interactive programs.

3:3.62 The Regional Partnerships funding bid of $165 000 represented 50 per cent of the cash contribution and 45 per cent of total project costs. DOTARS' assessment of this project was provided to the Ministerial Committee for consideration on 24 March 2006. DOTARS advised the Committee that the project did not satisfy the outcomes or partnerships and support criteria and only partially satisfied the project viability criterion. DOTARS records state that the Committee sought additional information on in-kind funding, co-funding conditions and cost shifting.

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[351] ANAO Audit Report No.39 2006–07, op cit., p. 94.

[352] As noted in Table 3:3.1, during the 1 September 2004 to 31 August 2005 period, the Internal Procedures Manual specified a range for the minimum co-funding for commercial projects. Adopting the more stringent upper limit of this range, there were an additional two projects that failed the applicable quantum co-funding test, were not recommended for funding by DOTARS but were, nonetheless, approved for funding by the Ministerial decision-maker.

3:3.63 On 19 June 2006, a second assessment and departmental recommendation was provided to the Ministerial Committee. The department continued to not recommend approval of funding because the project was assessed as failing to meet the outcomes and partnerships and support criteria and only partially meeting the project viability criteria. In terms of partnerships, the Committee was advised that:

> Partnerships support is considered weak as there is no state or local government funding. *Regional Partnerships* will be the major total and cash contributor.
>
> Furthermore, this project is an income generating project and as such classed as a commercial activity, this means that partnership funding fails to meet the preferred minimum level of 60 per cent.
>
> The applicant applied for a grant from the State Department of Education. The applicant was unsuccessful on the grounds that the Department of Education assists with other components of their work and as such is unable to apply under the same grant program for this project. Nonetheless, there is a concern that this project falls under the remit of state government and thus represents cost shifting.
>
> The Department therefore considers the *Regional Partnerships* bid to be inappropriate.

3:3.64 On 23 June 2006 and 10 July 2006, two members of the Ministerial Committee annotated the brief as approving funding for the project. The application was subsequently referred to the 16 August 2006 meeting of the Committee for consideration. The Committee approved funding on 16 August 2006, with each member signing a new copy of the departmental project assessment. Neither the project assessment nor the records of the Ministerial Committee meetings documented what further inquiries were undertaken by, or on behalf of, the Committee with respect to the shortcomings identified against three of the Programme criteria, including partnerships and support. The Committee documented the reasons for its decision as follows:

> The project was approved by the Ministerial Committee on the basis that there is strong community support. The Ministerial Committee thought that this was a worthwhile project. Funding will be used for infrastructure not the actual service delivery. They noted the need to encourage study of science and the project meets the Youth priority.

Expected revenue as a source of project funding

3:3.65 There were a number of projects in the audit sample where nominated cash contributions from the applicant included revenue from the project being funded. None of the versions of the Internal Procedures Manual applicable in the period examined by ANAO[353] addressed how such contributions were to be assessed. Accordingly, inconsistent practices had emerged.

3:3.66 On some occasions, the Ministerial decision-maker had been advised by DOTARS in the project assessment that expected project revenue was not a genuine contribution as it is speculative in nature. For example:

- the December 2004 assessment of RP01309 Mount Gambier Regional Foodbank stated that:

  > The applicant's cash contribution [*of $4 037, representing four per cent of project cash costs*] to the project is from income derived during the project period and must be considered speculative.

- the October 2004 assessment of RP01067 The Employability Initiative stated that the applicant's cash contribution:

  > includes $235 612 [*representing 44 per cent of project cash costs*] in training income and corporate funding which will be obtained as the project progresses and cannot be confirmed. This is not considered a genuine contribution, because the contribution is merely speculative.

3:3.67 However, in other instances, no such qualification or advice had been included in the project assessment and advice provided to the Ministerial decision-maker.

3:3.68 Inconsistencies in this respect were particularly evident in respect to RP00936 Horse Australia 2005 and RP01101 Beef Australia 2006, each of which is the subject of an ANAO case study. Both projects included an 'applicant' contribution that related to revenue expected to be generated through the staging of the respective expositions. The implications of this were examined in the assessment of the Horse Australia 2005 project, contributing to a recommendation that only partial funding be approved. In comparison, the issue was not addressed at all in the assessment and advice in respect to the Beef Australia 2006 application. Full funding was provided for this project.

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[353] This included the September 2005 version, which was the extant version at the time of ANAO fieldwork.

3:3.69 The issue of anticipated income has also arisen with respect to more recent applications considered by the Ministerial Committee. For example, RP02389 Jervis Bay Triathlon Festival sought $9000 in Regional Partnerships funds towards the costs of a triathlon festival to be held at Huskisson between 10 February and 12 February 2006. Other cash funding proposed for the project totalled $157 600, but was comprised mainly of funds derived from fees expected to be paid by future competitors ($126 000). The 6 February 2006 project assessment provided to the Ministerial Committee advised that:

> The Regional Partnerships bid of $9000 represents 4 per cent of total project costs and 5 per cent of cash funds….Partnerships appear to be excellent however the Department considers competitor fees to not be acceptable contributions towards the project. Without the competitor fees the partnerships are still acceptable, as Regional Partnerships would still be a minor contributor.

3:3.70 On this basis, the department assessed that the partnerships and support criterion had been partially satisfied. The issue of the majority of project revenue coming from competitor fees was also a key factor in the application being assessed as a high viability risk (see Figure 3:3.7).[354]

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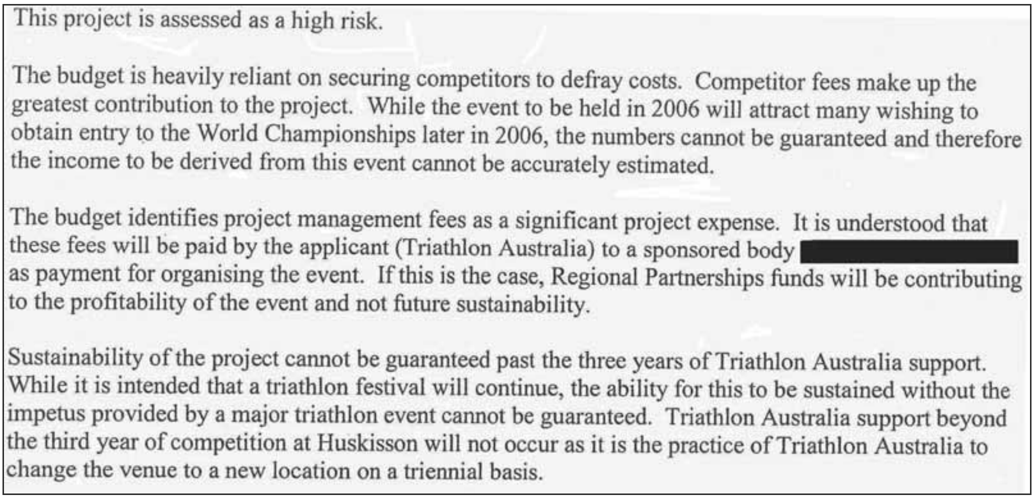
[354] The project was also assessed as only partially satisfying the outcomes criterion and DOTARS raised concerns that the sponsorship arrangement for the project could be construed as an organisation seeking funds on behalf of others, which it advised the Ministerial Committee was an activity not permitted under the Regional Partnerships Programme Guidelines. Notwithstanding the departmental assessment, on 9 February 2006, each member of the Ministerial Committee approved Regional Partnerships funding for the project. The record made by the Ministerial Committee of its reasons for approving funds for this not-recommended project was an annotation by one Minister that: ‘It is a multiple event for three years with potential to go on and continue to provide impetus to economy. The applicant is the <u>principal</u> of the event and so should be eligible.’ [*Emphasis as per original*]

Figure 3:3.7

RP02389 Jervis Bay Triathlon Festival: Assessment of viability risks



This project is assessed as a high risk.

The budget is heavily reliant on securing competitors to defray costs. Competitor fees make up the greatest contribution to the project. While the event to be held in 2006 will attract many wishing to obtain entry to the World Championships later in 2006, the numbers cannot be guaranteed and therefore the income to be derived from this event cannot be accurately estimated.

The budget identifies project management fees as a significant project expense. It is understood that these fees will be paid by the applicant (Triathlon Australia) to a sponsored body [redacted] as payment for organising the event. If this is the case, Regional Partnerships funds will be contributing to the profitability of the event and not future sustainability.

Sustainability of the project cannot be guaranteed past the three years of Triathlon Australia support. While it is intended that a triathlon festival will continue, the ability for this to be sustained without the impetus provided by a major triathlon event cannot be guaranteed. Triathlon Australia support beyond the third year of competition at Huskisson will not occur as it is the practice of Triathlon Australia to change the venue to a new location on a triennial basis.

Source: DOTARS project assessment dated 6 February 2006. [*Name of sponsored body deleted*]

3:3.71 Although not recommended by the department, this application was approved for funding of $9000 by the Ministerial Committee in February 2006. In accordance with normal processes, the letter signed by the then Minister for Transport and Regional Services advising the funding recipient (Triathlon Australia Ltd) of the funding approval did not refer to the results of the departmental assessment. In November 2007, the funding recipient advised ANAO that it disagreed with various elements of DOTARS' assessment of its application and that:

> The project being assessed as high risk is a concern. In terms of completing future funding applications, if we are not aware of what criteria is not being met or not met, it may reduce the likelihood of successful future funding applications. Secondly, for an organization with limited resources, to invest resources in potential unsuccessful applications is in many ways a waste of resources. In confirming or denying any application, the applicant needs to be provided with constructive feedback on their application.

3:3.72 The appropriate approach to take in assessing anticipated income from a commercial activity was addressed in the July 2006 version of the Programme Guidelines. In particular, the Programme Guidelines state that:

> Anticipated income from a commercial activity is not regarded as a partnership contribution.[355]

3:3.73 Similarly, the draft revised Internal Procedures Manual provided by DOTARS to ANAO in June 2007 stated that:

> Anticipated income from a commercial activity is not recommended as a partnership contribution.

3:3.74 In July 2007, DOTARS advised ANAO that assessment training scheduled for July/September 2007 was to reinforce the principle that anticipated income from a commercial activity is not to be regarded as a partnership contribution.

Revised internal procedures

3:3.75 The revised Internal Procedures Manual requires that the assessment of each project explicitly rates the project according to whether the partnership funding arrangements are weak, adequate, good or excellent as defined in the Regional Partnerships Programme Guidelines (see Figure 3:3.1). The revised Manual also requires that the project assessment provided to the Ministerial Committee explicitly addresses:

- the strength of partnerships, consistent with the thresholds specified in the Programme Guidelines; and
- any circumstances where DOTARS has assessed a difference between the level of partnership funding claimed in the Regional Partnerships application and the level considered realistic by the department.[356]

3:3.76 Adherence to these enhanced assessment procedures can be expected to improve the advice provided to the Ministerial Committee on partner co-funding for commercial projects seeking Regional Partnerships funding.

Regional Partnerships asked to contribute a negligible amount to project costs

3:3.77 In administering partnership requirements, the focus is often on maximising the contributions from other partners in order to achieve a high

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[355] DOTARS, Regional Partnerships Guidelines, July 2006, p. 12.

[356] This includes instances where there are doubts about whether the contribution will be realised, unrealistic costings of in-kind contributions, retrospective contributions (such as those relating to a previous stage of the project) and where contributions do not relate directly to the project activities.

degree of 'leverage' from Commonwealth funding. However, this should be balanced by a recognition that a high ratio of partnership contributions to Commonwealth funding can raise questions about the importance of the Commonwealth's contribution to the project proceeding and, consequently, the value for money that would be derived from making such a contribution.

3:3.78 The assessment of such issues can be an important feature of regional assistance programmes. For example, in the United Kingdom, to qualify for Regional Selective Assistance, projects must be both viable and show that without grant they could not go ahead.[357] In respect to assessing value for money in these circumstances, the United Kingdom National Audit Office has stated that:

> Assessing additionality always presents officials with a challenge because they have to reach a view about what would happen without grant. Only the applicant has full knowledge of their reaction to this situation. The Department base their judgements on analysis of company policies, plans and the strength of arguments advanced in applications and associated meetings. They weigh the evidence against the backdrop that refusing assistance could jeopardise investment and employment in a disadvantaged area.[358]

3:3.79 Similarly, an earlier ANAO audit of a Commonwealth grants programme noted that:

> The 1991 proposal to renew the program noted that the original program of $13m had generated projects costing $95m, i.e. a ratio of 1:7. This high 'leverage' ratio begs the question of how influential Commonwealth funding was in the project proceeding. In other words Commonwealth funding may not be very influential in whether or not a project goes ahead. The findings of the consultant's evaluation that 55% of all applications would have gone ahead anyway lends support to this view. Certainly small grants to large construction projects or those with strong commercial prospects were probably not crucial to the decision to go ahead.[359]

3:3.80 In this context, the ANAO Administration of Grants Better Practice Guide states that:

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[357] United Kingdom National Audit Office, *The Department of Trade and Industry: Regional Grants in England*, HC702 Session 2002–2003, 17 June 2003, p. 9.

[358] ibid., p. 3.

[359] ANAO Audit Report No.9 1993–94, op cit., p. 43.

> If the ratio of funding from other sources to Commonwealth funding is high, this is a strong indication that the project could well proceed without Commonwealth funding assistance. What constitutes a high ratio may vary from program to program; and an acceptable 'trigger' ratio should, where possible, be established at the outset as a basis for identifying applications requiring further investigation.[360]

Assessment practices

3:3.81 There were 22 projects approved in the three years to 30 June 2006 where the Regional Partnerships Programme was assessed as providing less than 10 per cent of the project cash costs. Seven of these were included in the audit sample. There were a further 78 projects where the Regional Partnerships Programme was assessed as providing between 10 per cent and 20 per cent of project cash costs. Of these, 19 were included in the audit sample.

3:3.82 For the projects in the audit sample, in some instances the Regional Partnerships funding was sought for a specific element of the project because the existing funding sources were said to be incapable of funding a shortfall in project costs and/or an extra element of the project had been identified after other funding had been obtained.

3:3.83 An example of this latter circumstance involved RP00289 Australia's National Mineral Water and Bathhouse Facility. For that project, $500 000 (plus GST) in Regional Partnerships funding was approved to construct an enhanced entranceway to a refurbished facility. The entranceway is a component of a wider project that centres on refurbishment and ecologically compliant use of mineral water in the historic bathhouse complex. At the time of the December 2003 application for Regional Partnerships funding, the refurbishment project had received funding commitments totalling $6.68 million. However, the design of the redevelopment was changed in late 2003 to address equity of access issues and environmental efficiencies. Among other things, this added a pedestrian bridge and a first floor reception with a lift (core elements of the entranceway for which Regional Partnerships funds were sought).

3:3.84 In this context, DOTARS' assessment of this project in terms of the partnerships and support criterion was undertaken by reference to the estimated costs of the entire project for which funding had already been secured. This approach did not address whether the Regional Partnerships

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[360] ANAO Better Practice Guide—Administration of Grants, op. cit., paragraph 2.17, p. 44.

Programme was being asked to fully fund the cost of constructing the entranceway, noting that the application was premised on the entranceway being an additional, separately identified element of the larger project.

3:3.85 There were also instances in the audit sample where it was evident that the project was likely to proceed, regardless of whether Regional Partnerships funding was provided. As illustrated by Table 3:3.2, this was a feature of a number of projects submitted by, and approved for, the City of Rockingham in Western Australia.[361]

Table 3:3.2

City of Rockingham approved Regional Partnerships projects

Project	Overall project budget	Regional Partnerships funding	
		$(plus GST)	Per cent
Rockingham Beach Waterfront Village			
RP00891 Development of a Village Green	$16 000 000	200 000	1%
RP02207 Community Centre		400 000	3%
Waterfront Village Total	$16 000 000	600 000	4%
RP01166 West Coast Dive Park	$450 000	100 000	22%
Lark Hill Sporting & Equine Complex			
RP01116 Wetlands	22 000 000	250 000	1%
RP02203 Sports and Recreation Complex		600 000	3%
Lark Hill Total	22 000 000	850 000	4%
Overall Total	**38 450 000**	**1 550 000**	**4%**

Source: ANAO analysis of DOTARS records.

3:3.86 For example, in respect to RP00891 Rockingham Beach Waterfront Village—Development of a Village Green, the redevelopment of Rockingham Oval formed the first stage of a larger initiative under the Waterfront Village (Urban Renewal) Plan for revitalising the Rockingham Beach waterfront precinct. The Regional Partnerships application identified that the City had budgeted $4.5 million in 2003–04 for the Waterfront Village project, with

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[361] The Chief Executive Officer of the City of Rockingham is a member of the Peel ACC.

Landcorp (the WA State Government land development agency) having budgeted $7.5 million for the overall project.

3:3.87 The April 2004 application for funding stated that the project cash budget was $2.65 million. The City of Rockingham was to provide $2 451 000, with $200 000 (plus GST) being sought from the Regional Partnerships Programme. Following discussions with DOTARS, the City of Rockingham amended its Regional Partnerships application on 14 May 2004 such that it related specifically to the Village Green component of the overall Oval redevelopment project. The Village Square aspects were removed and the project cash budget was reduced to $2.15 million. The City of Rockingham was to contribute $1.45 million and LandCorp $500 000, with $200 000 (nine per cent of project costs) being sought from the Regional Partnerships Programme.

3:3.88 DOTARS' assessment of the Village Green project noted that the level of commitment by the City of Rockingham and LandCorp, plus growing private sector interest, would suggest that the proposed urban renewal programme would proceed without Regional Partnerships funding. However, the project was recommended for Regional Partnerships funding 'on balance', because:

> It is appropriate that Regional Partnerships should support, albeit as a very minor contributor, an urban renewal programme with the high potential that this project has to benefit Rockingham.

3:3.89 However, there was no analysis by DOTARS of what outcomes or benefits would be obtained through the minor Regional Partnerships contribution that would not otherwise have been obtained, given the commitment of the other levels of Government to proceeding with the overall redevelopment project. In this respect, the City advised ANAO in July 2006 that:

> The Regional Partnerships funding of $200 000 was included in the $2 650 000 thereby reducing the City of Rockingham's budgeted contribution to the Village Green and Flinders Lane to $2 450 000.

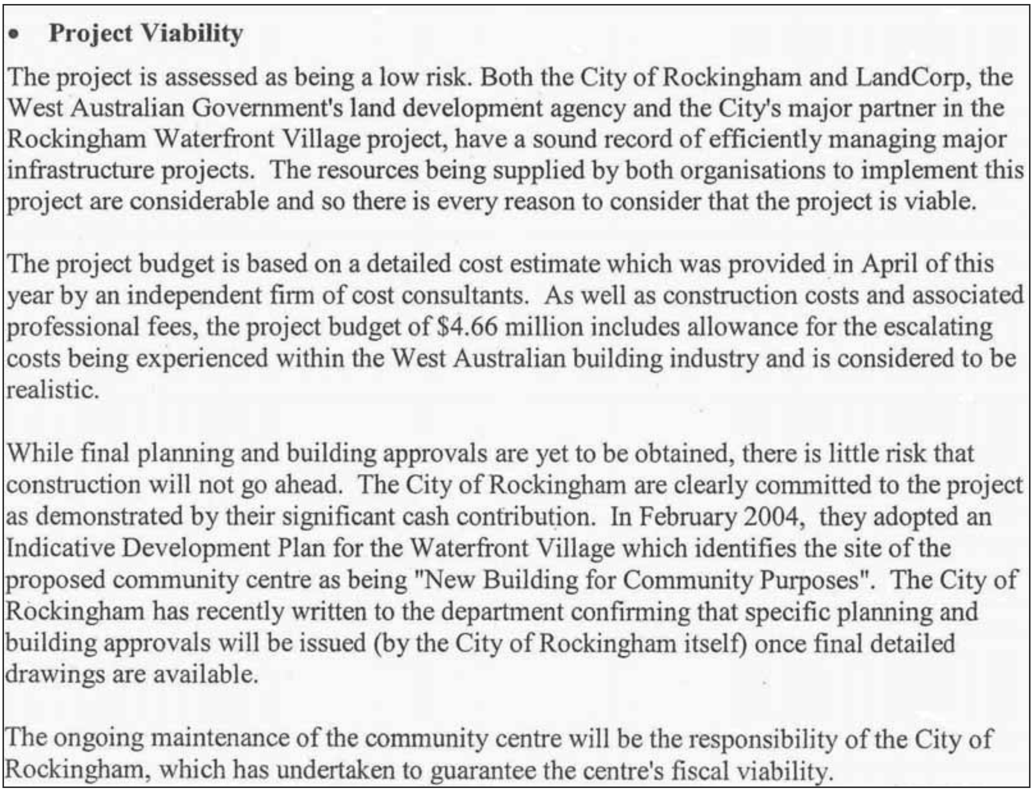
3:3.90 The second Regional Partnerships-funded project related to the Waterfront Village development being undertaken by LandCorp was approved by the Ministerial Committee in March 2006 for $400 000 (plus GST) in Regional Partnerships funding. This was for RP02207 Rockingham Waterfront Village Community Centre. The Committee was advised that this project was part of an overall $16 million urban renewal program that had been commenced in 2003. In terms of partnerships, DOTARS' assessment was that:

> Partnerships support for the project is considered to be excellent, with local and state governments both making substantial contributions, $3.76 million and $500 000 respectively. Between them, they have allocated $12 million to the overall Rockingham Waterfront Village project.

3:3.91 The assessments provided by the department against the partnerships and support criterion and the outcomes criterion did not address the question of whether the project was likely to proceed, regardless of whether Regional Partnerships funding was provided. Instead, this issue was assessed as reducing project viability risks in the assessment against that criterion, as illustrated by Figure 3:3.8.

Figure 3:3.8

RP02207 Rockingham Waterfront Village Community Centre: Project viability assessment



- **Project Viability**

The project is assessed as being a low risk. Both the City of Rockingham and LandCorp, the West Australian Government's land development agency and the City's major partner in the Rockingham Waterfront Village project, have a sound record of efficiently managing major infrastructure projects. The resources being supplied by both organisations to implement this project are considerable and so there is every reason to consider that the project is viable.

The project budget is based on a detailed cost estimate which was provided in April of this year by an independent firm of cost consultants. As well as construction costs and associated professional fees, the project budget of $4.66 million includes allowance for the escalating costs being experienced within the West Australian building industry and is considered to be realistic.

While final planning and building approvals are yet to be obtained, there is little risk that construction will not go ahead. The City of Rockingham are clearly committed to the project as demonstrated by their significant cash contribution. In February 2004, they adopted an Indicative Development Plan for the Waterfront Village which identifies the site of the proposed community centre as being "New Building for Community Purposes". The City of Rockingham has recently written to the department confirming that specific planning and building approvals will be issued (by the City of Rockingham itself) once final detailed drawings are available.

The ongoing maintenance of the community centre will be the responsibility of the City of Rockingham, which has undertaken to guarantee the centre's fiscal viability.

Source: DOTARS project assessment dated 16 February 2006.

3:3.92 The project assessment for RP02207 Rockingham Waterfront Village Community Centre project advised the Ministerial Committee that the City of Rockingham had received Regional Partnerships funding totalling $550 000 for three projects but did not advise that one of these was for another element of the Waterfront Village development. The Committee was also not advised that there was a further project from the City of Rockingham under assessment (which was later approved for Regional Partnerships funding, bringing the total number of approved City of Rockingham projects to five).

3:3.93 As illustrated by Table 3:3.2, two of the five projects submitted by the City of Rockingham that were approved for Regional Partnerships funding to 30 June 2006 related to the Lark Hill Sports and Recreation Complex. The Lark Hill project is being undertaken by the City of Rockingham with support from the State Government's Planning Commission to establish a major sport and recreation complex to serve the rapidly expanding population in the South West corridor of the Perth Metropolitan area.[362] In October 2003, the City of Rockingham had endorsed the master plan for the Lark Hill complex and approved the development of the project with Stage One of the development expected to cost in excess of $22 million.[363]

3:3.94 The first project funded by the Regional Partnerships Programme relating to the Lark Hill development was RP01116 Lark Hill Sporting & Equine Complex Wetlands. The application for this project was submitted by the City of Rockingham on 22 June 2004. The City sought $250 000 (plus GST) for a project to construct walk-trails, observation nodes and platforms for access to the environmentally sensitive conservation wetlands within which the Lark Hill complex is located. DOTARS' August 2004 project assessment advised the then Parliamentary Secretary that the Regional Partnerships bid represented 51 per cent of total project costs, with the City of Rockingham contributing $241 000 cash. The departmental assessment was that:

> Partnership support for the project is considered adequate, particularly given the considerable financial commitment that has been made by the City of Rockingham ($8.45 million) and the Western Australian Government ($5 million) to the development of the Lark Hill Sporting & Equine Complex, of which this project is an early stage.

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[362] City of Rockingham, *Council Meeting Minutes*, 24 April 2007, p. 43.

[363] ibid.

3:3.95 The project assessment did not address the value for money issues relating to the question of whether the project was likely to proceed, regardless of whether Regional Partnerships funding was provided. Instead, the Ministerial decision-maker was advised that, given the quantum of funds committed by State and local government, the successful development of the complex was 'assured'. The project was approved for funding on 31 August 2004.

3:3.96 The second Lark Hill development project was RP02203 Regional Public Infrastructure Development—Lark Hill Sports and Recreation Complex. The July 2005 application sought $600 000 (plus GST) in Regional Partnerships funding representing eight per cent of the estimated cost of constructing three sports pavilions. The March 2006 project assessment advised the Ministerial Committee that these pavilions were a $7.9 million part of the $21 million first stage of the Lark Hill Regional Sports and Recreational Complex. In terms of partnerships, the Committee was advised that partnerships support was 'excellent' without addressing the question of whether approving Regional Partnerships funds towards the project was adding value to a project that was already committed to proceeding. The assessment also did not advise the Ministerial Committee that funds had already been approved for an earlier stage of the overall Lark Hill development.[364] Funding for this project was approved by the Ministerial Committee.

3:3.97 Similar issues to those raised by the Waterfront Village and Lark Hill projects were apparent with respect to a number of the commercial projects in the audit sample. For example, RP01216 Organic Chicken Processing involved $200 000 (plus GST) in Regional Partnerships funding being paid for a project involving the construction of an on-site processing plant for an organic chicken enterprise. The for-profit applicant, as the only funding partner, proposed to

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[364] The Ministerial Committee was advised that the City of Rockingham had received Regional Partnerships funding totalling $550 000 for three projects, without these projects being identified. The project assessment also did not advise the Committee of difficulties that had been encountered in the administration of grants for the already approved projects. For example, in respect to the other Lark Hill project (RP01116), funding had been approved in August 2004 for a project with 12 months duration. Payment of 50 per cent of funds ($250 000 plus GST) was made following execution of the Funding Agreement, with the project to be completed by 30 January 2006. Extensive delays in the project followed, with progress reporting requirements not being met (for example, the first Regional Partnerships instalment was not acquitted until 15 June 2006). At the time of audit fieldwork for this project (September 2006), DOTARS had written to the City of Rockingham offering it a variation to the Funding Agreement to extend the Activity Period for the project to 28 February 2007. Similar issues were raised in ANAO's examination of RP00891 Rockingham Beach Waterfront Village—Development of a Village Green. Project monitoring arrangements for the Programme, including progress reporting aspects, are examined in Part 5 of this audit report relating to Managing for Outcomes.

contribute $840 000 cash to the project. Accordingly, Regional Partnerships funds were assessed as representing 19 per cent of project cash costs.

3:3.98 However, concurrent with applying to the Regional Partnerships Programme for funding, the proponent was putting in place a multi-million dollar funding program. This and other contemporaneous financial data should have indicated to DOTARS that the proponent may have been able to meet all the identified funding requirements of the project to construct an on-site processing plant.[365] This was confirmed by the Post-Activity Report provided to DOTARS in November 2005, which demonstrated that the proponent was able to finance an extra $1.03 million in project costs through its prime bank and the company's own funds.

3:3.99 By way of comparison, DOTARS did not recommend Regional Partnerships funding of $1.5 million[366] be approved for RP01521 Multi Contract Juice and Milk Packing on the basis that:

> While the project is considered to be viable, due to the surety of the market for the new processes and as preliminary work to extend the factory to house the new equipment has already commenced, there is no doubt that the project will go ahead, regardless of the success of this application for Regional Partnerships funding. Hence, Regional Partnerships funding is not considered essential for this project.

3:3.100 The marked inconsistency evident in the assessment of RP01521 Multi Contract Juice and Milk Packing compared with the various projects submitted by the City of Rockingham reflect, amongst other things, the absence of documented assessment procedures to identify projects that are likely to proceed without Regional Partnerships funding. In this respect, one benefit of documented internal procedures is to give confidence that consistent standards of administration are adopted. This is particularly important for programmes that involve assessments for grants funding, due to the fundamental importance of applicants being treated equitably.

3:3.101 In October 2007, DOTARS advised ANAO that:

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[365] In November 2007, the funding recipient advised ANAO that: 'I disagree with the claim in your report that we could have met all the identified funding requirements of our project through our prime bank and own funds. We tried repeatedly and unsuccessfully to raise additional bank finance and the multi million dollar funding program you refer to was required to fund a whole range of other initiatives on our agenda as well as significant working capital. As such we remained severely capital constrained throughout the entire period of the project and beyond and could not have completed the project without the Regional Partnership grant.' See further ANAO analysis in this respect at paragraph 3:4.23.

[366] Assessed partner cash co-funding was $2 706 000, all from the private sector applicant.

> A project that may be considered likely to proceed without Australian Government assistance may still be eligible if it is deemed that with assistance the outcomes of the project are both more likely achievable and in the long term sustainable, even if that assistance is minimal in the overall project context. The Ministerial Committee is briefed on the percentage of *Regional Partnerships* funding of the total project costs and the intended Outcomes of the project. The Ministerial Committee is informed that the project may proceed with or without Government assistance, and in these cases, the additional outcomes the contribution from the Australian Government is likely to achieve are identified. This is outlined in the…updated Procedures Manual…The current approach is consistent with the Guidelines, and therefore, the programme policy as approved by the Ministerial Committee.

3:3.102 In this context, as outlined at paragraph 3:3.80, a trigger ratio can be used to identify projects warranting further investigation due to the negligible amount of Regional Partnerships funds being sought. In such circumstances, the trigger ratio does not involve the setting of a minimum percentage of total project costs that are sought from the Regional Partnerships Programme in order for the project to be eligible for funding. Instead, consistent with risk management principles, the trigger ratio is used as an assessment guide to identify projects that merit more rigorous assessment of the importance of the Commonwealth's contribution to the project proceeding and, consequently, the value for money that would be derived from approving Regional Partnerships funding.

Recommendation No.10

3:3.103 ANAO *recommends* that the Department of Transport and Regional Services establish a trigger to identify projects warranting further investigation because of the high ratio of partnership funding to Regional Partnerships funding, so as to be better placed to advise the Ministerial decision-maker(s) as to whether the project is likely to proceed without Regional Partnerships funding and, if so, what additional outcomes would be achieved solely through the contribution of the Regional Partnerships funds.

DOTARS response

3:3.104 Agreed with qualification as this is a policy matter and would therefore be subject to agreement by the Government and the Ministerial Committee.

3:4 Confirming Co-Funding

Confirming the existence of proposed co-funding, its terms and any related conditions is an important function for grants programmes that seek to contribute to projects that are expected to obtain significant financial contributions from other sources. This chapter examines DOTARS' procedures and practices with respect to confirmation of co-funding for Regional Partnerships projects.

Confirmation during the assessment phase

3:4.1 Each version of the Internal Procedures Manual applicable from June 2004 has required project assessors to consider the status of nominated partner contributions and whether they needed to be confirmed. However, in the three years examined by ANAO, it had been commonplace for assessors not to confirm co-funding during the assessment phase. This was evident, for example, from the high proportion of projects that had been approved subject to proposed co-funding being later confirmed. In this respect, of the 981 individual projects approved for funding in the first three years of the Programme, 263 (27 per cent) were approved by the Ministerial decision-maker subject to later confirmation of co-funding.

3:4.2 In some instances, it is not possible to confirm co-funding prior to completing the assessment due, for example, to applications to other grants programmes not having yet been decided. In other cases, although documentation confirming co-funding was available at the time of assessment, it was not obtained by the department.

3:4.3 For example, RP01483 Hibernian Hall Arts and Cultural Precinct, was approved in December 2004 by the then Parliamentary Secretary for $155 000 (plus GST) in Regional Partnerships funding. Funding was approved subject to confirmation of all co-funding. Consistent with this condition, the Funding Agreement signed on 21 March 2005 included a pre-condition on the first instalment payment of Regional Partnerships funds requiring confirmation in writing of all co-funding. Written confirmation in respect to the $1.18 million of the $1.57 million in co-funding (75 per cent) was obtained by DOTARS in March and May 2005.

3:4.4 All of the confirming documentation pre-dated the December 2004 project assessment such that it could have been obtained and examined as part of the project assessment. Written confirmation was not obtained by DOTARS in respect to the remaining 25 per cent of co-funding, as follows:

- the project assessment had advised the then Parliamentary Secretary that an application would be submitted by the applicant for the $330 000 proposed to come from the State Government's Local Governing Bodies' Capital Works Subsidy Scheme, but the only information obtained by DOTARS (in March 2005) with respect to this funding was some documentation on the Scheme itself rather than a copy of the application and/or offer of funding; and
- with respect to the $30 000 nominated by the application as coming from Arts Queensland and a further $30 000 from the Jupiter's Casino Community Benefit Fund, DOTARS relied upon oral advice from the applicant that these entities were waiting for the project budget to be confirmed before they would confirm their contributions in writing, and that should the funding not be forthcoming, the applicant would underwrite the amount.

3:4.5 In this context, as outlined in paragraph 3:2.17 of this report, the various versions of the Internal Procedures Manual issued up to and including the September 2005 version (the version in place at the time of ANAO fieldwork) included guidance to assessors on the types of evidence that could be used to confirm partner co-funding during the assessment phase. As noted at paragraph 3:2.22, improvements have been made to internal procedures in this area.

Applicant contributions

3:4.6 Since the commencement of the Regional Partnerships Programme, the Internal Procedures Manual has required that assessments against the partnerships and support criterion address:

- the proportion of the project being funded (in cash or in-kind) by the applicant; and
- whether the applicant's contribution indicates a strong commitment to the project.

3:4.7 In terms of confirming nominated applicant cash contributions to a project, the Internal Procedures Manual has advocated that assessors examine financial statements from the applicant (where applicable) as an indication of whether the applicant is in a position to commit to the stated contribution.

3:4.8 One instance in the audit sample where the applicant contribution was confirmed through examination of relevant financial information involved

RP00279 So You Want to Build Bridges wherein $26 000 (plus GST) was sought in December 2003 and approved by the then Parliamentary Secretary in March 2004 for a project to establish an engineering and building workshop in Ballarat from which training could be delivered. On 9 January 2004, as part of its assessment of the application, the North Victorian Regional Office sought confirmation of the applicant's $40 000 cash contribution[367] by way of a bank statement or other financial information. A copy of the bank statement for the period 25 December 2003 to 31 December 2003 was subsequently provided by the applicant.

3:4.9 However, there were numerous instances in the audit sample where project assessments did not adequately confirm applicant contributions. One instance was outlined in ANAO's case study of RP01364 Country Homes and Cabins[368] which demonstrated that the February 2005 departmental assessment against the partnerships and support criterion was deficient in significant respects. For example, the application stated that $559 100 in working capital was to come from the applicant and that this contribution had been received. However, no balance sheet or bank statements relating to the for-profit applicant entity were obtained by DOTARS in order to demonstrate that this financial contribution had been received and was available for the project. The importance of obtaining this information should have been evident to the department given that the cash flow projections attached to the application showed an opening bank balance on 1 July 2004 of $400 000, but $285 000 was budgeted for land purchase and development costs, leaving only $115 000 available for ongoing operations and the project that was the subject of the Regional Partnerships application for funding.

Applicant borrowings and other capital raising activities

3:4.10 An area where departmental assessments have been particularly deficient has been in relation to confirming applicant contributions that are proposed to be financed by borrowings.

3:4.11 For example, RP01877 Community Kitchen involved $150 000 (plus GST) in Regional Partnership funding towards the construction and fit out of a community kitchen as part of a larger $6.5 million project to construct an entire community complex at the Quang Minh Temple in Melbourne. In its

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[367] This was the only partnership co-funding for the project.

[368] Regional Partnerships funding of $375 000 (plus GST) was approved for this project.

application, the proponent indicated that the remainder of the funds for the kitchen component, estimated to cost approximately $500 000, would come from the Department of Victorian Communities (DVC—$90 000) and the proponent's own funds ($279 000). The application stated that the funding from DVC was part of a $1 million grant that was yet to be approved, and that the applicant's own contribution was to be sourced from a $3.7 million bank loan that was 'in negotiation'.

3:4.12 In its assessment of the project, DOTARS sought confirmation from the applicant of the outcome of the DVC funding application and copies of the applicant organisation's annual reports and audited financial statements. In October 2005, the applicant provided copies of annual reports for the three previous financial years from 2003 to 2005 inclusive. However, none of the reports evidenced any loan to the applicant. The only reference to any analysis having been undertaken by DOTARS on these annual reports was a file note indicating 'Audited financial statements for financial years 2002/03, 2003/04, 2004/05 showing net assets of $4.089 million as at 30 June 2005.' Significantly, there was no reference in the file note to the apparent absence of a bank loan for $3.7 million.

3:4.13 The only other reference to the applicant's proposed cash contribution to the project was an internal DOTARS email dated December 2005 which stated the following:

> Applicant's cash contribution—they have advised us that all their funding has been secured, but we do not have any actual documentation to confirm this. However, the Department of Victorian Communities has committed $1 million to the overall project after a comprehensive evaluation including confirmation of application funding, and we are satisfied with this.[369]

3:4.14 Notwithstanding the absence of documentation confirming the applicant's funding for the project, DOTARS' project assessment provided to the Ministerial Committee in January 2006, recommending that funding be approved, advised the following regarding the partnership cash contributions:

> Partnership cash contributions are excellent at 71 per cent of the total cash budget, although it should be noted that the bulk of this is provided by the applicant as the kitchen's share of the total temple complex construction costs. This contribution is confirmed.

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[369] However, there was no evidence on file that DOTARS had witnessed, or sought to obtain, a copy of DVC's 'comprehensive evaluation' referred to in the December 2005 email.

> The Department of Victorian Communities has recently approved a grant of $1m for the overall temple project, $90 000 of which is earmarked for the community kitchen.

3:4.15 ANAO's case study of RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith project also evidenced shortcomings in the assessment of nominated applicant contributions being financed through borrowings. The total project cost identified in the application was $3 460 402 with the major funding partners proposed to be the Regional Partnerships Programme with $571 500 (plus GST) and the applicant with $2 802 902, to be funded through a bank loan (which represented 83 per cent of the proposed cash funding for the project as set out in the application).[370]

3:4.16 The August 2005 application form described the status of the borrowed capital as 'Contribution committed'. However, at the time of submitting its application, the for-profit applicant did not have confirmed financing in place and, in fact, had not yet applied for bank finance. This was explicitly identified in a letter from the applicant's bank that was included in the supporting documentation accompanying the Regional Partnerships application, and in further correspondence from both the applicant and the applicant's bank provided to DOTARS in the course of its assessment.

3:4.17 Despite this, the assessment provided to the Ministerial Committee (which recommended that funding not be approved due to viability concerns) did not include advice that the applicant did not have approved finance in respect to its proposed cash contribution. It also did not advise the Ministerial Committee that any funding approval should be subject to approval of the bank finance being confirmed. In this respect, DOTARS advised ANAO in November 2006 that:

> The recommendation was that the application **not** be approved. Consequently, the need for a condition concerning confirmation of co-funding was redundant. [*Emphasis as per DOTARS' advice to ANAO*]

3:4.18 ANAO notes that this advice takes a narrow view of the department's role in the Regional Partnerships Programme assessment and approval process. Specifically, as the responsible Ministers have explicitly declined to authorise DOTARS officials to approve or not approve any Regional

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[370] The local Council was also nominated as contributing $15 000 cash to the project costs.

Partnerships grant applications, it is important that project assessments provided to Ministers for consideration address all key issues and risks such that Ministers are in position to make informed funding decisions, including in circumstances where DOTARS has recommended that funding not be approved.

3:4.19 In this case, the Ministerial Committee disagreed with the department and approved funding of $571 500 (plus GST) for the project at its 31 May 2006 meeting.[371] The Funding Agreement for this project was executed on 3 August 2006. The first payment of Regional Partnerships funds of $285 750 (plus GST—50 per cent of approved funds) was approved for payment on 7 August 2006. This was five months before a formal letter of offer for a financing facility for the funds required to complete the project was provided by the bank on 27 December 2006 and accepted by the funding recipient on 14 January 2007.

3:4.20 Similarly, in relation to RP01007 Salad Sprinkles Production Facility, Regional Partnerships funding of $63 139 (plus GST) was recommended by DOTARS for the construction of a shed to accommodate new machinery. At the time of submitting the application, the for-profit applicant did not have confirmed finance in place. In October 2004, DOTARS requested that the applicant provide evidence of the loan finance. The documentation provided to DOTARS stated:

> This indicative quotation does not confer an offer by the bank nor a commitment on its part to the transaction. The quotation is valid for your acceptance until 17 July 2003.

3:4.21 Notwithstanding the terms of this documentation, on 24 November 2004 DOTARS advised the then Parliamentary Secretary that:

> The applicant will be able to access bank finance of $170 000 for equipment required for this project and is funding the remainder of its contribution from its own reserves.

3:4.22 No other documentation regarding the loan of $170 000 was evidenced in DOTARS' records. In this regard, DOTARS' advice to the Parliamentary Secretary was made solely on the basis of an indicative quote dated nearly

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[371] The Ministerial Committee did not record its reasons for approving this 'not recommended' project. The nature of the additional inquiries undertaken during the Ministerial consideration of this application is discussed further in the ANAO case study of this project in Volume 3 to this audit report. The issues that arise in circumstances where Ministerial decision-makers reach a funding decision that is different to that recommended by the department are discussed more generally in Part 2 of this audit report relating to Application Assessment and Approval Processes.

18 months before the departmental advice, with an expiry date 16 months before the project assessment was provided to the then Parliamentary Secretary.

3:4.23 Such issues were also evident in ANAO examination of RP01216 Organic Chicken Processing, in respect of which Regional Partnerships funds of $200 000 (plus GST) were approved in March 2005. Information provided to DOTARS as part of the assessment of that project revealed that the for-profit applicant intended to raise capital of up to $4 million. According to the fundraising document, these funds were to be used for:

- an $850 000 investment in an on-site processing plant (which was the subject of the Regional Partnerships application for funding);
- $250 000 to refine existing infrastructure (hatchery, growing sheds, brooding system, etc.);
- $1.4 million for expansion (extra growing sheds and additional irrigation infrastructure; and
- $500 000 for working capital and brand building.

3:4.24 However, DOTARS did not undertake any documented financial analysis of the capital raising program outlined in the fundraising document. The department's assessment and advice was not finalised until three weeks after final closing of the capital raising should have occurred. The assessment provided to the then Parliamentary Secretary on 11 March 2005 included advice that:

> Written advice was received by DOTARS from InterFinancial confirming that the capital raising program was successful and that financial closing was to take place on 18 February 2005.

3:4.25 In this respect, the assessment and advice reflected inadequate due diligence investigations by DOTARS as:

- no steps were taken to confirm that financial closing had actually occurred, notwithstanding that three weeks had passed since financial closing was to have occurred;
- DOTARS did not ascertain the amount of funds that had been raised by the capital raising program; and

- no evidence was obtained of the actual receipt of any of the anticipated funds, such as bank statements or finance documentation.[372]

3:4.26 In this context, treasury specialists Applied Financial Diagnostics (who were engaged by ANAO to assist with the analysis of some case studied projects) advised ANAO that:

> In our opinion, DOTARS failed to confirm that external finance had been committed. Had this funding proved to be substantial, it may also have led DOTARS to question the need for Regional Partnerships Programme funding in the first place.
>
> Missing information can prove to be as important as provided information when assessing grant applications and this is certainly the case with [*the funding recipient*] where, in our opinion, such provision has been selective.

Contributions from partners other than the applicant

3:4.27 In terms of contributions from partners other than the applicant, since the commencement of the Regional Partnerships Programme, the Internal Procedures Manual has required that assessments against the partnerships and support criterion include analysis of:

- the existence of any other partners in the project and whether they were nominated as providing cash or in-kind support;
- whether the partner contributions could be considered substantial, having regard to the size of the community, the identity of the partners, the size of the project and access to other funding sources in the community;
- the existence of any conditions on partner contributions and, if so, the impact of these conditions; and
- the status of the contributions and whether they needed to be confirmed.

3:4.28 ANAO analysis of projects in the audit sample revealed significant inconsistencies in the approach taken to assessing the status of nominated partner contributions.

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[372] On 25 October 2007, the funding recipient advised ANAO that: ‘In relation to the capital raising through InterFinancial, I can confirm that these funds were in fact raised.’

3:4.29 For some projects, the approach taken was to require the applicant to confirm the major elements of partnership contributions before the department would recommend that funding be approved. This was evident, for example, in ANAO's examination of RP01452 and RP02039, both relating to a project titled Baralaba Swimming Pool Complex. The first application (RP01452) was for $137 779 in Regional Partnerships funding to assist with a total project cost of $376 297 to construct a new swimming pool at the Baralaba State School in central Queensland. In April 2005, the then Parliamentary Secretary agreed to a DOTARS recommendation that funding not be approved due to concerns about value for money, unconfirmed partnership contributions and insufficient partner support from the State Government. In relation to partnership contributions, DOTARS had advised the applicant that:

> The fact that you have not secured, and plan not to pursue, the *[State Department of]* Sport and Rec funding is a serious issue for us. It means that you currently do not have funds necessary to complete the project. It also weakens the partnerships aspect of the project. Regional Partnerships funding is highly unlikely to be approved in this situation.

3:4.30 However, a number of other ANAO case studies have demonstrated that the department has not adopted a consistent stance on this issue. For example, the RP01101 Beef Australia 2006 application that was approved for $2 200 000 (plus GST) in Regional Partnerships funding in June 2004 proposed partnership contributions of $3 661 750 but, of this amount:

- the State Government contribution of $1 000 000 cash had not been confirmed (and later eventuated as $505 000 in cash and in-kind support);
- the local government contribution of $200 000 had been applied for but had not been confirmed or received (it was later received);
- the majority ($570 000) of the private sector contributions were said to be in negotiation, $30 000 was committed but not yet received and the status of the remaining $100 000 not known; and
- the remaining $1 761 750 was speculative as it related to estimated income to be derived through the exposition itself.

3:4.31 The departmental assessment of this project did not raise these issues.

3:4.32 Another case involved RP01133 Carnarvon Recreational Marina. For this project, Regional Partnerships funding of $215 660 (plus GST) was recommended to, and approved by, the then Parliamentary Secretary on the basis of a project that involved construction of additional moorings for 22 keel vessels and a two lane boat ramp. However, the actual project involved additional moorings for 12 keel vessels and no boat ramp.

3:4.33 DOTARS' incorrect assessment of this project as comprising both the construction of a boat ramp and construction of an additional 22 mooring berths also resulted in a significant error in its assessment of partnership contributions. Specifically, DOTARS' project assessment provided to the then Parliamentary Secretary in October 2004 stated that the Regional Partnerships bid of $215 660 represented 41 per cent of the cash cost of the project. In terms of partnership support, DOTARS' assessment was that:

> The partnership support for this project is considered very sound with all three levels of government making significant cash contributions.

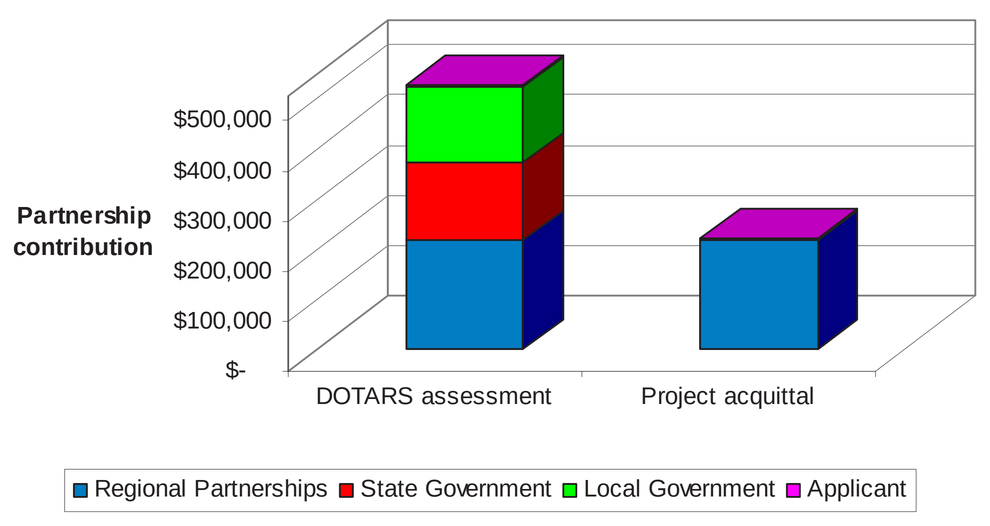
3:4.34 However, no inquiries were made by DOTARS during its assessment of the project in relation to the purpose and status of the nominated contributions. As a result, the advice to the then Parliamentary Secretary was unsound. Specifically, neither the State Government nor the Shire of Carnarvon was making any financial contribution to the Carnarvon Recreational Marina project. The funds identified in relation to these entities related to a separate project to construct a recreational boat launching facility on adjoining land to the marina. As a result, the Regional Partnerships funds were to be the only cash contribution from any level of government to the Regional Partnerships-funded project.

3:4.35 The shortcomings in DOTARS' assessment of partnership contributions were exacerbated by the department not effectively administering the partnership contribution clauses of the Funding Agreement. In particular, the Funding Agreement requirement for written confirmation of the partnership contributions within 20 Business Days of the Funding Agreement was not enforced (see further on this issue at paragraphs 3:4.111 to 3:4.118).

3:4.36 This was further compounded by ineffective administration of the financial acquittal for the project. Specifically, DOTARS took no action in relation to the acquittal it received in March 2006 that showed that the Regional Partnerships Programme had funded 98 per cent of the costs of the Carnarvon Recreational Marina project. The only other party that made any financial contribution to the project was the Carnarvon Yacht Club, with $4062 (compared to the $5000 specified in the Funding Agreement). This is illustrated by Figure 3:4.1.

Figure 3:4.1

RP01133: Carnarvon Recreational Marina partnership contributions: DOTARS assessment versus actual as acquitted by the funding recipient



Source: ANAO analysis of DOTARS records.

3:4.37 In another such example, ANAO's examination of RP00886 Caliguel Lagoon Redevelopment revealed that Regional Partnerships funds of $30 000 (plus GST) were approved by the then Parliamentary Secretary based on a departmental assessment which stated that 'this project represents a partnership between all three tiers of government'. However, the assessment did not advise the Ministerial decision-maker that the proposed State Government contribution of $15 196 was yet to be confirmed, or recommend that funding be conditional upon such confirmation.

3:4.38 In other instances, the advice to the Ministerial decision-maker incorrectly suggested there was no need for co-funding to be confirmed. For example, on 18 April 2006, the Ministerial Committee approved $119 198 (plus GST) in Regional Partnerships funding for RP02238 Lockington Multi-purpose Day Room. In relation to the partnerships and support criterion, DOTARS had advised the Ministerial Committee that:

> Partnership support for this project is considered good. The Victorian Department of Human Services is the major contributor providing 64 per cent of the cash contribution. All contributions have been received [*ANAO emphasis*].

3:4.39 However, this advice was in error. Specifically, DOTARS had not obtained any information from either the applicant or the State Department to confirm the State contribution, or that it had been received. In this respect, records held by the Central Murray ACC examined by ANAO evidenced that the State Government contribution had been confirmed, but that the majority of funds ($215 683 or 78 per cent) would not be received until 2006–07.

3:4.40 Similarly, DOTARS' assessment of the RP01784 Tourist Railway Project—Carriage Restoration application for Regional Partnership funding of $129 800 (plus GST) advised the then Parliamentary Secretary that funding of $80 000 from Warwick Shire Council towards the project (over one-third of all cash funding required for the project to be achieved) was confirmed and that Council had 'provided a letter confirming its contribution'. However, DOTARS' records indicate that the only letter it had received from Warwick Shire Council was a letter from the Chief Executive Officer to the applicant extending an offer to apply for funding, as follows:

> I refer to your correspondence of 22 December 2004 wherein you request confirmation of a Capital Assistance Loan of $80 000 to complete the restoration of wooden locomotive carriages.
>
> Southern Downs Steam Railway is eligible to apply to Council under this program, however the Southern Downs Steam Railway is required to complete a written application which will be considered and assessed by Council at Committee and General Meeting level prior to written confirmation. [*ANAO emphasis*]

Co-funding terms and conditions

3:4.41 An important issue to be addressed when confirming partner contributions is whether there are any terms or conditions on the contribution that are relevant to the administration of the Regional Partnerships funding. However, departmental practices in the projects examined by ANAO had applied insufficient scrutiny to this issue and the potential impact on partnership arrangements.

3:4.42 For example, in relation to the bank finance for RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith project mentioned earlier in this chapter, a March 2006 letter to the applicant from its bank (a copy of which was provided to DOTARS during its assessment) indicated that, should the company choose to apply for financing for the project, any approved funding would be subject to a number of conditions. Those financing conditions were relevant to the assessment of the application for Regional Partnerships funds. Specifically, the relevant likely conditions as stated by the bank were that:

> Shareholders funds and Government/Council Grants are to be expended prior to utilising the Bank facility. Evidence of the availability of the grants is to be provided to the Bank. Contributions from all other sources are required to ensure the Bank facility following sale of existing premises does not exceed $1 990 000. [*ANAO emphasis*]
>
> an additional commitment from the shareholders to support a contingency fund of $250 000.00 during construction…
>
> Any cost overruns or cost of variations are to be met by the Shareholders. Refer our comments in respect to contingency fund…

3:4.43 Despite having received a copy of the bank's letter, there is no evidence of DOTARS identifying these likely conditions on any bank finance for the project, or considering whether such arrangements would be satisfactory from the Commonwealth's perspective. The associated risks have subsequently been realised under the terms of the financing facility offered by the bank and accepted by the funding recipient. Specifically, to protect the bank's interests, before the first drawing from the construction facility, the funding recipient was required to provide satisfactory evidence to the bank that shareholders' equity in the project (identified by the bank as being approximately $1 096 000, including the Regional Partnerships grant) had been fully expended.

3:4.44 Another example was RP00289 Australian's National Mineral Water and Bathhouse Facility. The Regional Partnerships application prepared by the Central Highlands ACC on behalf of the applicant (Hepburn Shire Council) stated that Council would be making a $500 000 contribution to the project from its working capital. In its 11 December 2003 covering letter providing the application to DOTARS, Council advised DOTARS that:

> Council's commitment is now $1.2 million and the Victorian Mineral Water Committee $300 000. Added to the State Government's $5.18 million, a total of $6.68 million is committed with the project requiring $7.18 million.

3:4.45 Council was to borrow its contribution, with the costs of the borrowings to be serviced from income Council receives from the Bathhouse lease, in its capacity as the Committee of Management for the Bathhouse. However, DOTARS relied upon the 11 December 2003 advice from Council about its contribution, without undertaking further due diligence inquiries.[373] As a result, in its assessment of the project, the department did not assess the source of Council's contribution to the project, whether it had been confirmed or how it would be financed.

3:4.46 In this context, it was not until August 2006, more than two years after the Funding Agreement was signed, that the Regional Office discussed with Council the status of its $1.2 million contribution. DOTARS' record of this discussion states that the department was advised on 7 August 2006 that:

> Council annually submits a statement to the Victorian Government of proposed borrowings for the next 12 months. Once approved and some two months before the funds are needed they then go to the market to get competitive quotes for finance.
>
> They are expecting the Victorian Government will approve their request for this project. Council could fund the project out of cash reserves, however they generally don't do this as it depletes their available cash for Council operations, other initiatives etc. According to [*Council*], Council currently has $130,000,000 *[sic]* in reserves some fixed and some discretionary to use to secure finance and that this information is available on their website.

3:4.47 In addition, consistent with the Bathhouse being a Victorian State Government asset, the significant majority of funding is being provided by the State Government. In this respect, attached to the December 2003 application for Regional Partnerships funding was a copy of the Grant Agreement of 27 August 2003 for the Bathhouse redevelopment project between the State Government and Council for $5 180 515 (GST inclusive) through the State Government's Regional Infrastructure Development Fund. This Agreement included valuable information on the timing and quantum of payments to Council by the State Government. Specifically, the State Government had agreed to fund the first $5 180 515 in project expenditure such that, until project expenditure exceeded this amount, there would be no need for the Regional Partnerships Programme to provide any funding.

3:4.48 There was no evidence of the information on the State Government funding arrangements having been analysed by DOTARS as part of its

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[373] In response to a request from DOTARS National Office for further information/advice, on 19 March 2004 the North Victorian Regional Office advised National Office that the Chief Executive Officer of Hepburn Shire Council had forwarded a letter confirming the Council's commitment of $1.2 million. The letter referred to was the covering letter for the Regional Partnerships application. It did not provide any details of the terms and conditions of the Council contribution, or of how it would be financed.

assessment of the application for Regional Partnerships funding. As a result, DOTARS did not structure the payment of Regional Partnerships funds to have regard to the timing of other partner contributions to the project. This, combined with DOTARS paying $450 000 (plus GST) in Regional Partnerships funds (90 per cent of the approved funds) upon execution of the Funding Agreement and well before it would be needed, was reflected in Council investing the Regional Partnerships funds rather than using them for the purpose of project expenditure.

Revised internal procedures

3:4.49 In December 2006, DOTARS advised ANAO that it had reinforced in the revised Internal Procedures Manual then under development:

> the need to validate partnership contributions during the assessment phase—and where this is not possible, stressed the need to make confirmation of partner contributions a condition to project approval.

3:4.50 Consistent with this advice, the relevant section of the revised Internal Procedures Manual provided by DOTARS to ANAO in June 2007 (and issued for use by staff in July 2007) requires assessors to:

- verify partnerships commitments by requesting evidence of the confirmation of funds by identified partners; and
- seek written confirmation of partnership contributions where they have not been previously supplied by the partner.

3:4.51 In addition, the various checklists included in the revised Internal Procedures Manual require assessors to address whether:

- the applicant's and partners' funding contribution is secured and committed;
- applicants and partners are contributing equitably throughout the life of the project such that the Regional Partnerships Programme is not providing all funding at the start of the project;
- the applicant's financial statements confirm an ability to commit to the project;
- the cash and in-kind contributions represent a genuine cost to the contributor;
- there are any conditions on partner contributions and, if so, the impact of these conditions on the project; and

- the partner contributions have been confirmed and, if not, when this is expected to occur.

3:4.52 The increased emphasis given by the documented internal procedures should assist to improve the attention given to confirming partnership funding during the assessment of applications for funding.

3:4.53 The revised Internal Procedures Manual also requires that, where the assessor identifies any risk that the partnership funding is not fully committed, they should incorporate conditions to be fulfilled into the recommendations to the Ministerial Committee. Suggested conditions to be fulfilled may include matching funding by appropriate partners and confirmation of partnership funding. However, it may also be of assistance if the documented internal procedures reinforced to assessors that such advice should be included in all assessments, including those in respect of which the department is not recommending that funding be approved, given that Ministers have approved not-recommended projects.

3:4.54 In July 2007, DOTARS advised ANAO that the improved procedures were being supported by staff training, as follows:

> The Department is undertaking extensive staff training on managing/monitoring of contractual agreements; relationship management and contract administration; principles of good contract management; assessing risk; drafting and managing a Regional Partnerships Funding Agreement; analysing Regional Partnerships progress and post activity reports; and finalising a Funding Agreement.
>
> Regional Partnerships application assessment training for National Office assessors is planned to commence in July 2007 with a module on the Procedures Manual—Section 4: Application Assessment. Further application assessment training is planned for delivery in September/October. This training aims to improve assessment skills for Regional Partnerships assessors. The training proposes to cover the following areas:
>
> - Assessors component of the New e-Grants system
> - Financial viability assessment and budget and financial analysis for assessors, covering:
>   - understanding and incorporating the financial viability assessment in an assessment
>   - analysing the budget information and project expenses provided with the Regional Partnerships application as part of the assessment process

  - analysing financial information provided in the Regional Partnerships application
- Completing a Regional Partnerships assessment covering:
  - understanding and applying all of the Regional Partnerships assessment criteria when completing assessments for Regional Partnerships
- Probity, record keeping and documenting decisions.

Projects approved subject to confirmation of partner funding

3:4.55 Of the 981 individual projects approved for funding in the first three years of the Programme, 263 (27 per cent) were approved by the Ministerial decision-maker subject to later confirmation of co-funding. These applications involved $57.15 million in Regional Partnerships funding (34 per cent of total approved Regional Partnerships funding).

3:4.56 Consistent with the results of ANAO's analysis of all funding decisions made to 30 June 2006, there was a high proportion of projects in the audit sample that were approved for Regional Partnerships funding subject to subsequent confirmation of co-funding. Specifically, 59[374] of the 194 approved projects (30 per cent) in the audit sample were approved for Regional Partnerships funding conditional on some or all co-funding being confirmed.

3:4.57 However, in some instances the department had recommended that funding be approved subject to confirmation of co-funding notwithstanding that confirmation had already been obtained. For example, RP02046 Dean Hall Revitalisation was approved for $24 500 (plus GST) on 8 November 2005 with other cash funding to come from a Commonwealth Games Heritage Grant ($26 535) and the Department of Victorian Communities ($49 465). As recommended by the department, the then Minister approved Regional Partnerships funding subject to confirmation of partner funding. However:

- attached to the Regional Partnerships application for funding was a letter to the applicant from the Minister for Victorian Communities informing it that an allocation of $49 465 had been approved under the

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[374] This comprised 50 projects approved for full funding subject to confirmation of partner co-funding and nine projects approved for partial funding subject to the applicant or other parties making up the balance of funding required.

Victorian Community Support Grants programme (thereby negating the need for confirmation of this co-funding); and

- on 19 August 2005 (during the assessment phase) the applicant had advised DOTARS that a lesser amount of $17 400 was to be received as a Commonwealth Games Heritage Grant (thereby meaning that other funds would be required to meet this shortfall, but this was not raised by DOTARS[375]).

3:4.58 In addition, there was one project in the audit sample where the requirement for confirmation of partner co-funding was waived by the Ministerial decision-maker after the original approval was made. In the remaining instances, this condition remained such that there was an obligation on the department to confirm co-funding for the project either before signing the Funding Agreement or to adequately address the condition in the terms of the Funding Agreement and its subsequent contract management. In this respect, ANAO's analysis has focused on those 53 such projects in the audit sample that were approved for Regional Partnerships funding subject to some or all co-funding being subsequently confirmed and that had Funding Agreements in place at the time of audit fieldwork.[376]

Confirmation of co-funding before signing the Funding Agreement

3:4.59 For five of the 53 projects (nine per cent), the Funding Agreement was not signed until DOTARS was satisfied that all partner co-funding had been confirmed.

3:4.60 In one instance (RP01333 Balranald Day Care), the department had recommended in February 2005 that full Regional Partnerships funding of $139 100 (plus GST) be approved but, on 9 May 2005, the then Parliamentary Secretary had approved partial funding of $119 100 (plus GST) subject to Balranald Shire Council contributing $20 000 cash to the project. As a result of the then Parliamentary Secretary's Office speaking to the Office of the local Federal Member prior to the funding decision being made, Council had

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[375] The financial acquittal for the project reported that, in addition to the Regional Partnerships funding, cash was provided by the Department of Victorian Communities ($49 465), the Commonwealth Games Heritage Grant ($17 400) and the applicant ($7 261), with an applicant in-kind contribution of $1874.

[376] This comprised 44 of the projects that had been approved for full funding subject to confirmation of partner co-funding and each of the nine projects that had been approved for partial funding subject to the applicant or other parties making up the balance of funding required. There were five projects that were approved subject to confirmation of partner funding that did not have a Funding Agreement in place at the time of audit fieldwork.

written to the Central Murray ACC on 4 May 2005 advising that, at its 19 April 2005 meeting, it had resolved to contribute $20 000 cash to the project. Accordingly, no further action was required by DOTARS to satisfy this approval condition such that it could proceed to sign the Funding Agreement (on 20 September 2005).

3:4.61 The other instances required action by DOTARS before the Funding Agreement could be signed. For example, RP00811 Mandurah Foreshore Focus 2020 sought $148 000 (plus GST) in Regional Partnerships funding but was approved on 2 July 2004 by the then Parliamentary Secretary for partial funding of $100 000 (plus GST), conditional upon the City of Mandurah (the applicant) providing, or obtaining from other sources, an additional $48 000 contribution to the project.[377] In September 2004, DOTARS was provided with a copy of a September 2004 Council resolution to approve additional funding of $48 000 in its 2005–06 budget towards the cost of the project. The Funding Agreement was then finalised and signed by the City of Mandurah on 9 November 2004 and DOTARS on 17 November 2004.

3:4.62 There were other instances in the audit sample where signing of the Funding Agreement was delayed until co-funding was confirmed, but DOTARS' practices involved less than complete confirmation. For example, on 22 October 2004, the then Parliamentary Secretary approved $300 000 (plus GST) in Regional Partnerships funding for RP01016 Design and Construction of an Interpretive Centre for the Carnarvon One Mile Jetty. Approval was given subject to two conditions, including that all partnership contributions be confirmed. The uncertain nature of the partnership contributions caused an extensive delay in this project proceeding to the stage of having an executed Funding Agreement. Ultimately, 22 months elapsed between the approval of funding for the project and the signing of the Funding Agreement on 8 August 2006. Even then, not all partnership co-funding had been confirmed.[378]

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[377] Partial funding was recommended and approved as it was considered more appropriate for the Australian Government to be a minor contributor at 26 per cent of total project costs. The funding sought of $148 00 had represented 39 per cent of total project costs and 51 per cent of cash costs, with the Regional Partnerships Programme proposed as being the single largest cash contributor to a project to develop a plan for influencing and directing the development of Mandurah's central foreshore area over a 15 year period.

[378] The Funding Agreement was drafted to include a pre-condition on the first payment of Regional Partnerships funds that all partnership contributions be confirmed. However, the first Regional Partnerships payment was made on 9 August 2006 (one day after the Funding Agreement was signed) notwithstanding that some of the partner contributions specified in the Funding Agreement had not been confirmed.

3:4.63 As illustrated by RP00811 and RP01016, awaiting confirmation of co-funding can lead to (in some cases considerable) delays in the signing of the Funding Agreement. The advantages of this approach include providing the applicant with certainty of Regional Partnerships funding, allowing it to use this to assist in leveraging other contributions, but with a reduced risk of any Regional Partnerships funds being paid before finances for the project are confirmed as being in place (having regard to the department's practice in the period examined by ANAO of paying a significant amount of Regional Partnerships funds in advance upon signature of a Funding Agreement).

3:4.64 In this respect, it is notable that each of the four instances in ANAO's sample in which action was taken by the department to confirm co-funding before signing the Funding Agreement were approved for funding between March and July 2004, indicating that this is no longer a practice being promoted within the department.

Confirmation of partner contributions as a pre-condition to receiving the first Regional Partnerships payment

3:4.65 The Long Form Standardised Funding Agreement used for most Regional Partnerships projects in the period examined by ANAO included, at Item 2 of the Schedule, two standard conditions precedent to the Commonwealth making the first payment, being:

- execution of the Funding Agreement by all parties; and
- receipt by DOTARS of a properly rendered tax invoice for the amount of the payment.

3:4.66 The Long Form Standardised Funding Agreement also included at Item 2 specific provision for the inclusion of an optional clause stipulating that the first payment in respect to a particular project would not be made until the applicant had satisfied additional, specified pre-conditions. In the audit sample, this optional clause was used for 33 projects to make confirmation of co-funding an explicit pre-condition to be satisfied before the first Regional Partnerships payment would be made. This comprised:

- 27 projects where the Ministerial decision-maker had approved Regional Partnerships funding subject to the confirmation of co-funding; and
- six projects approved for funding without any co-funding condition being placed on approval by the Ministerial decision-maker, but where

> the Funding Agreement had nevertheless included a condition that no Regional Partnerships funds would be paid until partner funding was confirmed. These instances further indicate that DOTARS has been inconsistent in the extent to which it fully informs the Ministerial decision-maker regarding whether all co-funding has been confirmed and, where it was not, advising that any funding approval should be conditional on such confirmation being provided.

3:4.67 Notwithstanding the requirements of the Long Form Standardised Funding Agreement, it was commonplace for the projects in the audit sample for DOTARS to make the first instalment payment without having obtained co-funding confirmation for all funding partners included in the project assessment and Funding Agreement. Specifically, DOTARS did not obtain evidence confirming all co-funding before it made the first payment for 22 of the 33 projects (67 per cent) with a co-funding pre-condition on the first instalment payment.[379] In total, over $2.3 million in first payments were made by DOTARS without the department obtaining evidence that the funding recipient had met the co-funding confirmation pre-condition.

3:4.68 For example, RP00936 Horse Australia 2005 (which is the subject of an ANAO case study) was approved for $200 000 (plus GST) in Regional Partnerships funding on 31 August 2004. The then Parliamentary Secretary's approval of partial funding was conditional on confirmation of partner co-funding. Specifically, the then Parliamentary Secretary's letter to the applicant advising of funding approval advised that:

> Funding for the project has been approved, subject to **<u>all</u>** partnership contributions being confirmed. [*ANAO emphasis*]

3:4.69 DOTARS included the following pre-condition in the Funding Agreement on the first payment of Regional Partnerships funds:

> approval for partial funding subject to confirmation of co-funding

3:4.70 In this respect, correspondence dated 25 January 2005 from the funding recipient returning the signed Funding Agreement to DOTARS advised as follows in relation to partnership contributions:

> We note that under clause 6.1 of the Agreement we must provide details of other contributions. We are still negotiating with some of our partners but will

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[379] See, for example, the ANAO case study of RP00769 Redevelopment of Geraldton Surf Life Saving Club at Chapter 3 of Volume 3 to this audit report.

> get details of agreements which have been finalised as soon as possible. Since our original application some of the commitments have altered however we are seeking other contributions and are on budget to deliver a successful event.

3:4.71 In addition to contributions from other parties, the Horse Australia application included $328 500 as an applicant contribution. The then Parliamentary Secretary had approved Regional Partnerships funding of $200 000 (plus GST) for the project, rather than the $500 000 (plus GST) that had been sought. The $300 000 reduction in Regional Partnerships funds (compared to what had been sought) was matched by a $300 000 increase to the applicant's contribution as specified in the draft Schedule to the Funding Agreement prepared by DOTARS (to $628 500 from the $328 500 identified in the application). This approach was taken notwithstanding that the applicant (Horse Australia) was not actually contributing any cash to the project (its originally nominated 'contribution' of $328 500 related to expected event revenue) and DOTARS had not assessed the capacity of Horse Australia (a non-profit member-based organisation incorporated less than a year earlier on 1 April 2004) to provide $300 000 in cash toward the staging of the event. Later advice from the funding recipient was that the reduced funding meant it would need to 'scale down' the event.[380] On this issue, in June 2007, DOTARS advised ANAO that:

> This Funding Agreement was signed by Horse Australia. This represented a commitment to provide the funds.

3:4.72 The Funding Agreement was executed on 31 January 2005. On 7 February 2005, the funding recipient provided the Regional Office with a report of progress towards the objectives of the project. In addition to providing a list of contributions received and confirmed, Horse Australia advised DOTARS that:

> Partnership contributions are being finalised with some changes to the overall project sponsorship levels. We confirm that the event budget has been adjusted to reflect changes to partnership contributions.

3:4.73 Given the extended delays that occurred between funding approval on 31 August 2004 and signing of the Funding Agreement on 31 January 2005, by the time the Agreement was signed, planning and preparation for the Horse

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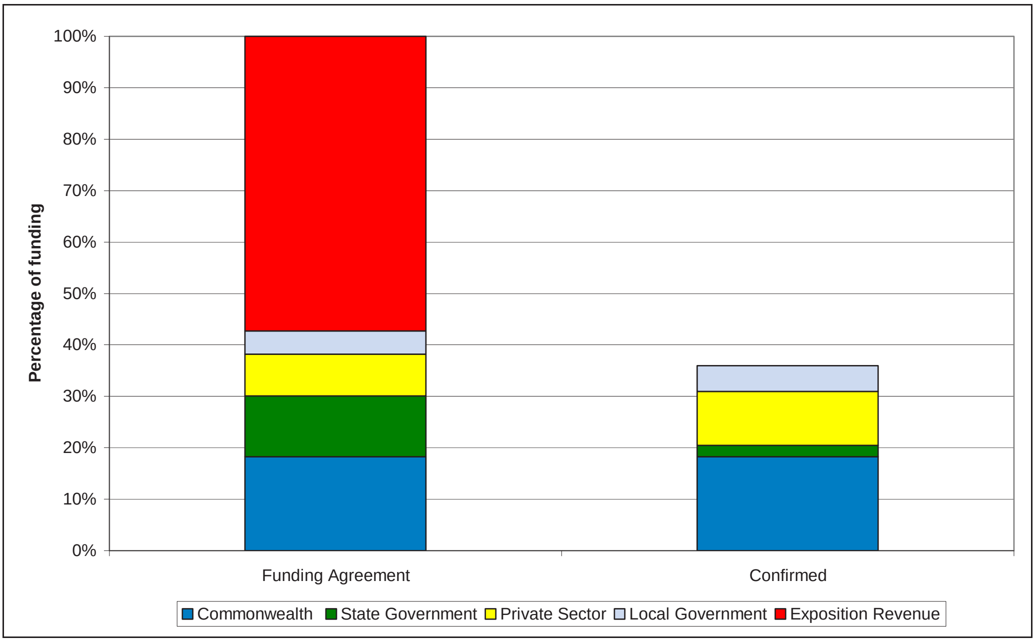
[380] In November 2007, the funding recipient advised ANAO that, 'as funding from major partners including the State and Federal government was reduced, so was the scale of the event with a resulting impact on visitation.'

Australia 2005 event was well advanced, with the exposition less than three months from its opening. Accordingly, it would be reasonable for DOTARS to have expected that partnership funding arrangements would have been largely settled by the time the Agreement was signed. However, (apart from the approved Regional Partnerships funding from DOTARS and prospective event revenue), the list provided by Horse Australia to DOTARS indicated that it had received and confirmed contributions totalling only $114 500 out of $897 500. As illustrated by Figure 3:4.2, this meant that there was a significant shortfall in confirmed funding compared to the project budget included in the Regional Partnerships Funding Agreement.

Figure 3:4.2

RP00936 Horse Australia 2005: Confirmation of partner contributions at execution of Funding Agreement



Source: ANAO analysis of DOTARS records.

3:4.74 Notwithstanding the substantial shortfall in confirmed contributions and the short time remaining before the exposition was to open, the only action taken by DOTARS was to contact Horse Australia on 8 February 2005 for further advice. DOTARS documented this discussion as follows:

> I rang [*Horse Australia*] to clarify her initial progress report with regards to State Government funding. Seems that the original $100 000 requested from Qld Events has eventuated as $25 000. The $30 000 from Dept of Sports and

> Recreation has been divided up and provided to a number of equestrian codes for the specific purpose of funding portions of the Horse Australia Event 2005. (i.e. some to Horse Australia directly; some to various pony clubs, totalling approx $12 000. These submissions were detailed in the brief as not being confirmed at the time of signoff of the brief by the Parliamentary Secretary.
>
> [*Horse Australia*] will provide more detail on all funds in her next progress report and will also include a section covering these funds in the final report and audit documents.

3:4.75 In this respect, Horse Australia had not satisfied the pre-condition on receiving the first payment, requiring that it confirm all partnership contributions. However, on 15 February 2005, DOTARS processed the first payment of $150 000 (plus GST), representing 75 per cent of approved funding.

Partnership confirmations with conditions attached

3:4.76 ANAO's sample of projects included a number that had co-funding which was confirmed by the funding partners conditional upon certain circumstances being met. Typically, these included timeframe conditions placed on the funding, whereby the funding was tied to the project commencing by a certain date.

3:4.77 However, several such projects were not effectively managed by DOTARS. In each instance in the audit sample, the conditions on the partner funding were not satisfied leading to a risk that the proposed co-funding would not be forthcoming, potentially placing the viability of the project at risk.

3:4.78 For example, the application for RP02424 Cairnlea Community Hub project seeking Regional Partnerships funding of $200 000 (plus GST) identified the following partnership contributions:

- Victorian Department of Human Services of $500 000—contribution committed;
- Brimbank City Council (applicant) of $332 750—contribution committed; and
- Department of Victorian Communities of $365 000—application for funding submitted.

3:4.79 The department's 12 April 2006 assessment advised the Ministerial Committee that:

> A grant of $500 000 from the Victorian Department of Human Services has already been confirmed. (The Department has not yet made public the granting of this money and requests that our Department maintains this confidentiality).

3:4.80 Based on the departmental assessment, the members of the Ministerial Committee approved Regional Partnerships funding between 8 May and 23 May 2006 subject to conditions, including confirmation of co-funding.

3:4.81 DOTARS did not obtain written documentation confirming the Department of Human Services grant until 21 July 2006, three days before the Regional Partnerships Funding Agreement was executed. The letter of approval from the Department of Human Services, dated 11 October 2005 (which, therefore, could have been obtained during the assessment of the project), advised that the grant was conditional upon a number of criteria.

> The Brimbank City Council will be allocated $500 000 in 2005–06 as a contribution towards the construction of the Cairnlea Community Hub, Deer Park. This funding will be subject to the Brimbank City Council meeting the funding criteria included in the Funding Guidelines. The criteria require the signing of the Department of Human Services Capital Funding Agreement, signing a building contract to undertake the project within six months, and obtaining a Children's Services Approval in Principle.

3:4.82 Importantly, the conditions of the grant between the funding recipient and Department of Human Services included the requirement that the project commence by 11 April 2006 (six months from the date of the letter of approval). Regional Partnerships funding for this project was not approved by the Ministerial Committee until 23 May 2006, by which time the project should have commenced (or placed the Department of Human Services funding at risk), thereby raising issues under the Regional Partnerships Programme Guidelines in relation to retrospective funding.

3:4.83 By way of comparison, DOTARS' June 2006 assessment of RP02713 The Agnes Water—1770 Heritage & Recreational Pathway advised the Ministerial Committee that the project only partially satisfied the partnerships and support criterion. DOTARS recommended that the project not be approved for Regional Partnerships funding.

3:4.84 During its assessment of that project, DOTARS had requested evidence of the applicant's request to Sport and Recreation Queensland for an extension to the completion date of 30 June 2006 required under it's contract with the State Government for funding of $48 783. Evidence of this request was provided to DOTARS by the applicant, however DOTARS did not receive confirmation of approval of the request extension by the State Government and, as such, advised the Ministerial Committee of the following:

> Partnerships support is considered good, however there is a high possibility that Sport and Recreation Queensland funding may not be available after 30 June 2006. If the $48 783 is not realised, the Regional Partnerships contribution will represent 58 per cent of total project costs. There is no assurance that the applicant will fill the gap if this occurs.
>
> The Department therefore considers the Regional Partnerships bid to be appropriate only if the Sport and Recreation Queensland contribution is realised.[381]

Partner confirmations as a milestone condition

3:4.85 There were six projects in the audit sample where confirmation of partner co-funding was included as an element of a project milestone in the relevant Funding Agreement, rather than as an explicit pre-condition to the making of the first payment. An additional three projects in the audit sample were approved for funding without any co-funding conditions, but confirmation of partner co-funding was nevertheless included as a project milestone in the Funding Agreement.

3:4.86 Compared to making confirmation of co-funding a pre-condition to receiving any payment of Regional Partnerships funds (as is provided for under the optional provisions of the Long Form Standardised Funding Agreement used for Regional Partnerships projects), the approach of including co-funding as a component of a broader project milestone increases the risk accepted by DOTARS in the administration of Regional Partnerships funding. This is particularly the case in circumstances where, as has existed under the Programme, advance payments are made upon signing of the Funding Agreement prior to any project milestones being required to be met.

3:4.87 For example, ANAO's examination of RP02237 Tambo Multipurpose Centre related to a project that sought $200 000 (plus GST) from the Regional Partnerships Programme with other cash contributions expected from:

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[381] Notwithstanding the department's advice, the Ministerial Committee approved funding for this project on 21 June 2006. The Committee did not record any reasons for approving funding. The issues that arise in circumstances where Ministerial decision-makers reach a funding decision that is different to that recommended by the department are discussed more generally in Part 2 of this audit report on Application Assessment and Approval Processes.

- Tambo Shire Council (applicant) $201 952 (38 per cent)[382];
- the Pioneer Permanent Building Society $25 000 (five per cent) towards the fit out of its space in the overall complex; and
- Queensland Health $100 000 (19 per cent), but this contribution was still in negotiation at the time of the Regional Partnerships application.

3:4.88 The departmental assessment provided to the Ministerial Committee on 21 March 2006 recommended that funding of $200 000 (plus GST) be approved subject to all relevant approvals being obtained and confirmation of the funding from Queensland Health. Consistent with this recommendation, funding was approved by the Ministerial Committee on 3 April 2006 subject to all relevant approvals being obtained and confirmation of the funding from Queensland Health.

3:4.89 A Funding Agreement was executed with Tambo Shire Council on 16 May 2006. However, the two conditions attached to the Ministerial Committee's approval of funding were not specifically identified in the Funding Agreement as pre-conditions that must be satisfied before the first payment would be made. Instead, the first payment was proposed to be made on 30 June 2006 upon completion of the first milestone, also expected on 30 June 2006, which was:

- State Government funding confirmed; and
- all approvals in place.

3:4.90 As a consequence, the Funding Agreement, as executed by DOTARS, incorporated Council obtaining State Government funding and all relevant approvals into the activity being funded through the Regional Partnerships Programme, rather than being pre-conditions to that activity, and any payments, commencing.

3:4.91 The first instalment of Regional Partnerships funds ($120 000 plus GST—representing 60 per cent of approved funding) was processed by DOTARS on 27 June 2006. In relation to the condition requiring confirmation of State Government funding, the payment was processed solely in reliance on a media release dated 25 May 2006 in which the Queensland Minister for Health announced that the Queensland Government would be providing

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[382] The application advised that Council would also make a $6000 in- kind contribution towards the cost of the tendering process.

$220 000 to develop new multi-purpose health centres in Wowan/Dululu and Tambo. The media release did not identify how much of the total funding would be provided to each project. On that basis, it did not provide adequate evidence confirming State Government funding of $100 000 (plus GST) to the Tambo project.

3:4.92 Clear confirmation of State Government funding was not obtained until 28 June 2006. This involved Council faxing to the South Queensland Regional Office an undated letter from the Queensland Minister for Health to Tambo Shire Council advising that Queensland Health would provide $100 000 (plus GST) in one-off funding to the Tambo Multipurpose Centre project. The letter indicated that the funds would be paid on 21 June 2006. DOTARS advised ANAO that, although earlier contact was attempted, the delay in receiving the letter was due to the fact that the project manager worked part-time.

3:4.93 The Funding Agreement had proposed that the first payment be made on 30 June 2006, following receipt of the first Progress Report, also due on 30 June 2006. No Progress Report had been provided by Council prior to the first payment being made. Other than a desire to pay the funds away prior to 30 June[383], there was no reason for DOTARS to make the payment in advance of obtaining the documentation needed in order to ensure the full requirements of the Ministerial Committee's funding condition had been satisfied and that Council had satisfied its reporting obligations under the Funding Agreement.

No action to confirm co-funding

3:4.94 DOTARS did not take effective action to give effect to the conditions of Ministerial funding approval in respect to 13 (22 per cent) of the 58 projects in ANAO's sample that were approved subject to confirmation of co-funding.

3:4.95 This included instances where confirmation was obtained for some, but not all, of the funding from other partners that had been included in the project assessment provided to the Ministerial decision-maker. It also included instances where there was no evidence of the department taking any steps to make confirmation of partner co-funding a condition of the Funding Agreement (either as a pre-condition to receiving Regional Partnerships payments or as a project milestone).

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[383] Having regard to the cut-off date for payments to be processed within the 2005–06 financial year.

3:4.96 For example, RP01486 Swan Hill Regional Information Centre Fit Out sought $45 000 (plus GST) in Regional Partnerships funding with proposed cash co-funding from the applicant Council ($30 000) and the Swan Hill Promotion and Development Corporation Inc ($15 000). On 11 May 2005, the then Parliamentary Secretary approved full funding subject to the cash contribution by the Swan Hill Promotion and Development Corporation being confirmed.[384] However, no further information in relation to this contribution was obtained by DOTARS prior to the Funding Agreement being signed on 10 June 2005 and the funding condition requiring confirmation of co-funding was not addressed in the terms of the Funding Agreement.[385]

3:4.97 Similarly, DOTARS recommended that $20 000 (plus GST) in Regional Partnerships funding be approved for RP01978 Wiluna Swimming Pool Shade subject to confirmation of co-funding. DOTARS' 9 September 2005 project assessment advised the then Minister that the $10 000 in co-funding from the applicant, the Shire of Wiluna, had been confirmed but that the proposed funding of $15 000 (33 per cent of the total project cost) from the Indigenous Coordination Centre (ICC) had yet to be confirmed and that a decision on funding may not be announced until June or July.

3:4.98 On 14 September 2005, the then Minister approved Regional Partnerships funding of $20 000 (plus GST) subject to confirmation of co-funding. However, the ICC co-funding was not confirmed prior to the Funding Agreement being signed on 21 November 2005 and no steps were taken in the preparation of the Funding Agreement to make confirmation of that funding either a pre-condition of the first instalment being paid or a project milestone.[386]

3:4.99 Similarly, DOTARS' April 2005 assessment of RP01424 Geraldton Foreshore and Central Business District Redevelopment (Stage 3) recommended approval of Regional Partnerships funding of $400 000 (plus GST) subject to confirmation of funding from the State Public Transport

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[384] In its assessment, DOTARS relied upon the application form advice from the applicant that its contribution had been committed but yet to be received. This contribution related to the estimated costs of fit out included in the applicant Council's January 2002 business case that led to a February 2002 Council decision to redevelop the former library site and relocate the information centre.

[385] The financial acquittal for the project did not identify that any contribution had been made to the project costs by the Swan Hill Promotion and Development Corporation. Nevertheless, the final Regional Partnerships instalment was paid by DOTARS on the basis of this acquittal.

[386] The financial acquittal for the project included a $15 000 contribution from the Department of Indigenous Affairs.

Authority (PTA). The assessment noted that $75 000 of the $195 000 contribution from PTA was still to be confirmed. Based on this assessment, the then Parliamentary Secretary approved partial funding of $205 000 (plus GST), stating:

> Funding up to an amount of $205 000 (GST exclusive) to assist with the Rest Centre Facility and the overall concept and specific design costs. The remainder components in Stage 3 would appear to be core Council Business.

3:4.100 On 19 May 2005, letters from the then Parliamentary Secretary were sent to the ACC Chair, the Federal Member for O'Connor and the applicant, the City of Geraldton, advising of the approval of partial funding 'subject to confirmation of co-funding from the Public Transport Authority'.

3:4.101 The Funding Agreement prepared by DOTARS and executed on 25 July 2005 included, at item 2.5 of the Schedule to the Agreement, a first payment pre-condition that 'Regional Partnerships funding [*be*] used for overall concept and design costs, and the upgrade of the rest centre'. The Agreement did not, however, include the requirement that co-funding from PTA be confirmed prior to the first payment being made.

3:4.102 The first payment of $102 500 (plus GST) in Regional Partnerships funds was made by DOTARS on 26 July 2005. At this time, DOTARS had not obtained, or sought, evidence of the unconfirmed PTA contribution. Further, at the time of the ANAO audit, there was no evidence in DOTARS' records to indicate that PTA had made any contribution towards the project.

Revised internal procedures

3:4.103 Until May 2007, the Internal Procedures Manual had not included guidance on the confirmation of partner co-funding in circumstances where the Ministerial decision-maker had approved funding subject to this confirmation being obtained. Between April 2006 and April 2007, ANAO provided DOTARS with a series of 22 case studies, many of which demonstrated inadequacies in respect to the confirmation of co-funding subsequent to Ministerial approval of a project.

3:4.104 As mentioned in Chapter 2 in this part of the report, in May 2007, DOTARS provided ANAO with copies of two sections of a revised Regional Partnerships Internal Procedures Manual. The department advised that these sections had recently been issued to departmental staff working on the Regional Partnerships Programme. These sections of the revised Manual now provide clear guidance to officials in circumstances where funding has been approved subject to confirmation of co-funding, as follows:

> Specific requirements or conditions on the approval of funds are often identified as part of the assessment process and approved by the Ministerial Committee or the Committee may identify additional conditions as part of approving a project.
>
> Conditions agreed to by the Ministerial Committee that have not been met prior to execution of the Funding Agreement must then be clearly defined and included in the Funding Agreement. Where those conditions are identified as a pre requisite to funding they need to be included in the Funding Agreement as a specific milestone to be achieved before any funding is paid.
>
> …In some cases conditions may be met during the period in which the Funding Agreement is developed. If this is achieved evidence in writing from the funding recipient accepted by us as demonstrating achievement, is required and must be recorded on the file.
>
> Any of the following will meet the requirements of confirmation of co-funding:
>
> - evidence in the form of bank statements identifying the contribution received from the partner in the amount stated in their application;
> - a letter of agreement/contract between the partner and applicant for the amount stated in the Regional Partnerships application; or
> - a current letter of intent from the cash partner indicating their contribution will be forthcoming. This should be on letterhead, signed by an appropriate delegate, and with the contribution amount stated as per the Regional Partnerships application.

3:4.105 FMA Regulation 13 requires that the Funding Agreement entered into by DOTARS comply with the terms of the Ministerial approval of the spending proposal given under FMA Regulation 9. As noted, in May 2007, the Ministerial Committee delegated to the department responsibility for approving minor variations for approved projects, provided that (among other things) partnerships remain within the limits of the Programme Guidelines. Prior to such a delegation coming into effect, FMA Regulation 13 required that DOTARS seek Ministerial approval for any changes in partner funding arrangements from those identified in the spending proposal approved by the Ministerial decision-maker.

3:4.106 In this context, the strong emphasis given in the revised Internal Procedures Manual on confirming partnership funding where this is a condition of the Ministerial decision to approve Regional Partnerships funding for a project is appropriate as it will assist to address previous non-compliant practices in this area of the administration of the Regional Partnerships Programme. In this respect, the revised Internal Procedures Manual further states that, where the funding recipient is not in a position to meet all conditions prior to the Funding Agreement being executed, Regional Office staff are to:

> - write the condition(s) into the Funding Agreement as milestones which must be met as a condition of payments being made.
>
> In most cases confirmation of development approvals or other partner funding contributions not obtained prior to execution must be drafted into the Funding Agreement as milestones and must be received before any funding can be paid.

3:4.107 This procedure formalises the practice observed by ANAO with respect to six of the 53 projects (11 per cent) in the audit sample that were approved subject to confirmation of co-funding and which had a Funding Agreement in place at the time of audit fieldwork. As noted at paragraph 3:4.86, this approach can involve greater risks to the Commonwealth than the other option provided by the Long Form Standardised Funding Agreement of making confirmation of co-funding an explicit pre-condition to receiving any payment of Regional Partnerships funds. In this respect, in July 2007, DOTARS advised ANAO that:

> The department has determined that, as a single standard mode of operation, co-funding confirmation will be a stipulated requirement within the payment and milestones tables of the Funding Agreement and confirmation will be required prior to any grant payments being made. This will not preclude every effort being made to confirm co-funding as early as possible in the process.
>
> The updated Procedures Manual, Chapter 6, will be amended to reflect this single approach as part of the continuous improvement of the Regional Partnerships Procedures Manual.

Confirming co-funding as part of Funding Agreement management

3:4.108 Irrespective of whether or not a Ministerial funding approval is expressed as being conditional upon some or all partner funding being subsequently confirmed, the Long Form Standardised Funding Agreement used for most Regional Partnerships projects has included a standard requirement relating to confirming the amounts, due dates, terms and conditions of co-funding. Specifically, Clauses 6.1 and 6.2 of the Long Form Standardised Funding Agreement in place during the period examined by ANAO stated that:

> 6.1 It is a condition precedent to the payment of Funds under this Agreement that You must get people (other than Us), as identified in Item 2 of the Schedule, to provide Us with satisfactory written evidence that they will provide the Other Contributions to You, including the amounts to be provided, their due dates and the terms and conditions of the provision of the Other Contributions. The terms and conditions on which these Other Contributions are to be provided must be satisfactory to Us.
>
> 6.2 The written confirmation referred to in subclause 6.1 must be provided to Us within 20 Business Days of the Date of this Agreement, failing which this Agreement will be treated as void and as never having been entered into.

3:4.109 However, the value of these clauses as an effective means of confirming partner contributions and, thereby, reducing risks to the Commonwealth had been circumvented by DOTARS' practice of drafting the Funding Agreement such that a significant proportion of approved funding was paid in the first instalment, usually shortly after the Funding Agreement had been signed (and therefore before the 20 business day period referred to in Clause 6.2 had expired). In this respect, half or more of total Regional Partnerships funding was paid in the first instalment for 83 per cent of projects in ANAO's sample where a Funding Agreement had been entered into by the completion of audit fieldwork.

3:4.110 As outlined below, there have also been shortcomings in the internal guidance issued by the department with respect to these clauses, and their administration as part of the effective management of Funding Agreements.

Guidance on the operation of Funding Agreement clauses

3:4.111 The Standardised Funding Agreements implemented by DOTARS in its management of the Regional Partnerships Programme are versions of the Long Form and Short Form Standardised Funding Agreements developed by the Australian Government Solicitor (AGS) as part of the More Accessible Government Initiative. The Standardised Funding Agreements are designed for use in situations where an Australian Government agency provides funding to a community organisation. The Standardised Funding Agreements come in three forms (minimalist, short and long) with increasing levels of accountability and safeguards.[387]

3:4.112 On 26 June 2003, when launching the Regional Partnerships Programme, the then Minister for Transport and Regional Services and the then Minister for Regional Services, Territories and Local Government announced that the Programme:

> will use the Government's new Standardised Funding Agreement, which is a model that all government departments can use to simplify and harmonise their approach to funding community organisations.[388]

3:4.113 In this respect, 'Other Contributions' are defined in Clause 1 of the AGS Standardised Funding Agreement as:

> financial or in-kind resources (with in-kind resources valued at market rates) used by You for the Activity, other than the Funding.

3:4.114 Following the finalisation of the Standardised Funding Agreement, AGS developed and distributed *Implementation Guidelines for Programme Managers* to assist those agencies using Funding Agreements based on the Long Form Standardised Funding Agreement. These *Implementation Guidelines* were designed to providing supporting information in relation to the implementation of each clause.

3:4.115 DOTARS developed its own *Preparation Guidelines* based on the AGS *Implementation Guidelines* for distribution to Regional Offices and ACCs. However, the DOTARS *Preparation Guidelines* departed from the AGS *Implementation Guidelines* in a number of areas. As illustrated by Table 3:4.1, in terms of Clause 6, DOTARS' guidelines omitted guidance regarding the importance of securing evidence of 'Other Contributions' from co-funding partners, and the significant consequences for the validity of the Agreement

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[387] Source: *Guide to the Australian Government's Standardised Funding Agreements*, p. 1 at <www.dotars.gov.au/regional/funding/sfa/guide.apsx>[accessed 20 June 2006]. This is a guide to the Standardised Funding Agreements developed by AGS. The Long Form and Short Form Agreements used in the Regional Partnerships Programme were based on these Standardised Funding Agreements. AGS completed a revision of the Long Form Version in mid-2005, however, as at 4 June 2007 a revised version of the Regional Partnerships Long Form Standardised Funding Agreement had yet to be issued. On 5 June 2007, DOTARS provided ANAO with a revised Standardised Funding Agreement which it advised was expected to be utilised from 1 July 2007, once training of Regional Office staff had been completed.

[388] The Hon John Anderson MP, Deputy Prime Minister and Minister for Transport and Regional Services and the Hon Wilson Tuckey, Minister for Regional Services, Territories and Local Government, *A New Regional Partnership*, Joint Media Release, 26 June 2003, p. 2.

should evidence of contributions not be provided within the required timeframe.

Table 3:4.1

Guidance on the operation of Clause 6 of the Long Form Standardised Funding Agreement

Australian Government Solicitor Guidelines	DOTARS Guidelines
Clause 6. Other Contributions The provision of the Funding may be subject to the receipt by the Recipient of additional financial or in-kind resources to the Funding (Other Contributions). The recipient must provide evidence that the Other Contributions will be available should it be required of the Funding Recipient during the application process, especially if provision of Funding is dependent on the Recipient obtaining Other Contributions. If these Other Contributions are not forthcoming, then the Commonwealth has options to suspend payment of the Funds till the Other Contributions are received or terminate the Agreement. The Commonwealth must describe in Item 2 of the Schedule the nature, source and timing of receipts of the Other Contributions, including as part of the Budget (if there is one). If this clause is used then no Funds can be paid until the evidence of the Other Contributions is provided, and if not provided within 20 Business Days of the Date of the Agreement the situation is as if no Agreement was entered into. Care should be taken with the dates in the Schedule for payment of Funding, Milestones, etc as they may need to be adjusted if evidence of Other Contributions is not provided when anticipated. The Recipient needs to inform the Commonwealth if it receives any Other Contributions not identified in the Schedule.	**Clause 6. Other Contributions** The provision of the Funding may be subject to the receipt by the Recipient of additional financial or in-kind resources to the Funding (Other Contributions). The recipient must provide evidence that the Other Contributions will be available should it be required of the Funding Recipient during the application process, especially if provision of Funding is dependent on the Recipient obtaining Other Contributions. If these Other Contributions are not forthcoming, then the Commonwealth has options to suspend payment of the Funds till the Other Contributions are received or terminate the Agreement. The Recipient needs to inform the Commonwealth if it receives any Other Contributions not identified in the Schedule.

Source: ANAO analysis of *Implementation Guidelines for Programme Managers* developed and distributed by AGS and *Preparation Guidelines* developed and distributed by DOTARS. [*ANAO highlighting of AGS guidance omitted from the DOTARS preparation guidelines*]

Administration of Funding Agreement requirements

3:4.116 DOTARS has obtained legal advice that addressed the operation of Clause 6 of the Long Form Standardised Funding Agreement. Specifically, in the context of whether it could terminate the Funding Agreement for RP00484 Tailwaggers Pet Food project, DOTARS obtained internal legal advice on the interaction of Clause 6.1 in the body of the Funding Agreement with the optional Clause 2.5 in the Schedule to the Funding Agreement.[389] In respect to Clause 6.1, the internal legal advice was that:

> Clause 6.1 does provide a positive obligation [*on the funding recipient*], but it is to procure certain written evidence from a third party for the Commonwealth.

3:4.117 However, in examining the projects in the audit sample, ANAO found that DOTARS has given little attention to administering Clause 6 of the Long Form Standardised Funding Agreement.

3:4.118 Of the 180 projects in the ANAO sample that had proceeded to the stage of having a Funding Agreement signed, 54 (30 per cent) had not satisfied the requirements set out under Clauses 6.1 and 6.2 in terms of providing information on cash co-funding[390] that had not been obtained prior to the Funding Agreement being signed.

Revised Long Form Standardised Funding Agreement

3:4.119 In June 2007, DOTARS provided ANAO with a draft of a revised Long Form Standardised Funding Agreement which it expected to be used in the administration of the Regional Partnerships Programme from 1 July 2007. The draft revised Funding Agreement had an amended Clause 6.2 which stated as follows:

> The written confirmation referred to in subclause 6.1 must be provided to Us within 20 Business Days of the Date of this Agreement, unless stated otherwise in the Schedule.

3:4.120 Consequently, the previous provision that failure to provide the written confirmation within the 20 Business Days would result in the Agreement being treated as void and as never having been entered into was to be omitted from Funding Agreements executed from July 2007.

3:4.121 This would address the shortcomings in previous departmental guidance on the operation of this aspect of the Long Form Standardised Funding Agreement. However, it also meant that the Long Form Standardised Funding Agreement would no longer include any clear consequence for

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[389] Where relevant, this optional clause can make confirmation of partner contributions a condition precedent to the Commonwealth making the first payment (see paragraphs 3:4.65 to 3:4.84).

[390] ANAO analysis of Clause 6 included cash contributions only, due to many Funding Agreements not including monetary values for the in-kind contributions proposed in the application and assessment provided to the Ministerial decision-maker. Issues relating to the assessment and confirmation of in-kind contributions are addressed in Chapter 2 in this part of the audit report.

funding recipients in the specific circumstance of them not providing DOTARS with written confirmation of partner contributions within 20 Business Days (or another agreed timeframe) of the Funding Agreement being signed. In this respect, in July 2007, DOTARS advised ANAO that the Funding Agreement schedule had been revised to now state:

> 2.4 a) The first payment of Funding specified in the table at Annexure A will not be made until:
>
> (i) The written confirmation of Other Contributions referred to in subclause 6.1 has been provided to Us and is to Our Satisfaction;…

3:5 Funding Agreement Management

Preparing and signing a Funding Agreement that accurately identifies all parties making a financial contribution to the cost of the project is an important part of the grant administration process for the Regional Partnerships Programme. This chapter examines the processes and practices that have been employed by DOTARS to contract for the receipt of the partner contributions endorsed by the Ministerial decision-maker, and the evaluation of partnership outcomes.

Introduction

3:5.1 ANAO's sample comprised 278 applications for funding that were submitted between 1 July 2003 and 30 June 2006. These 278 applications sought $51.78 million in Regional Partnerships funding. The amounts sought ranged from $3950 (plus GST) to $2 500 000 (plus GST). The average amount sought in Regional Partnerships funding in ANAO's sample was $186 256.

3:5.2 With one exception (which was not approved for funding[391]), each application in the audit sample nominated at least one party other than Regional Partnerships as providing cash and/or in-kind support to the project. There was a further application that initially proposed to obtain contributions from two other Commonwealth departments but, ultimately, was approved and contracted without any specified partner contributions.

3:5.3 Figure 3:5.1 analyses the applications in the audit sample in terms of the proposed sharing of project cash costs between the Regional Partnerships Programme and other parties nominated as providing cash to the project. Of note is that:

- it was most common for applicants in the audit sample to seek Regional Partnerships funding of between 20 per cent and 60 per cent of the nominated cash costs of the project. Specifically, 201 of the 278 applications (72 per cent) in the audit sample sought Regional Partnerships funding in this range. Of those, 146 (73 per cent) were approved for full or partial funding; and

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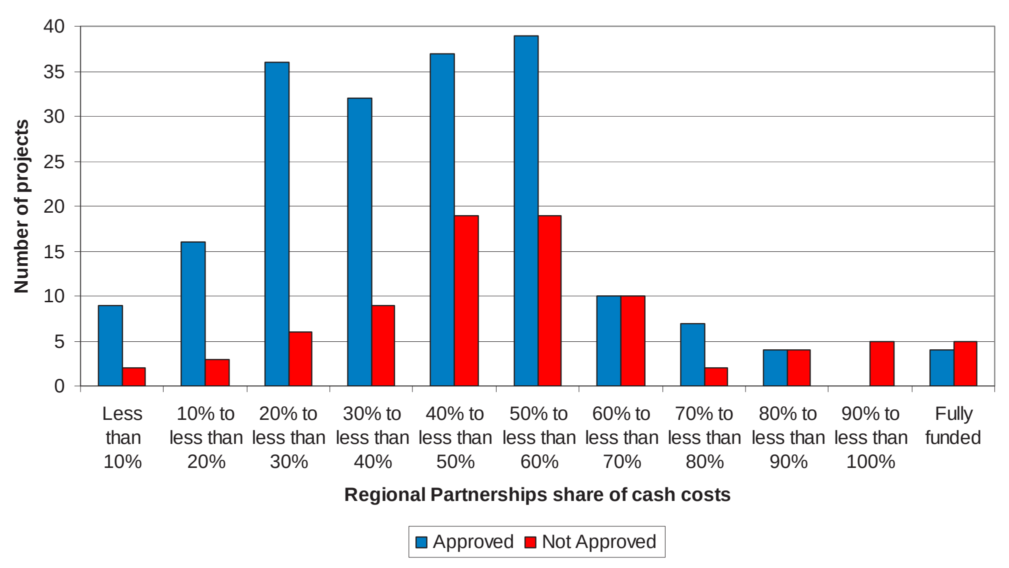
[391] Specifically, RP00109 involving the Western Australian Indigenous Tourism Operators Committee seeking $26 939 (plus GST) in Regional Partnerships funding for a detailed survey of tourism visitors to the Kimberley region in order to establish their requirements and interest in the way of East Kimberley Aboriginal tourism product or experiences. There were no nominated cash or in-kind partner contributions and DOTARS assessed that the project did not satisfy the partnerships and support criterion.

- more than half of the not approved projects in ANAO's sample had applied for Regional Partnerships funding representing 50 per cent or more of total project cash costs. This indicates that the level of partner cash funding can be an important consideration in projects not being approved for funding. However, one-third of approved projects in the sample also sought Regional Partnerships funding of 50 per cent or more of the total project cash cost.

Figure 3:5.1

Proposed sharing of project cash costs: approved and not approved projects in the audit sample



Source: ANAO analysis of Regional Partnerships applications and project assessments provided to the Ministerial decision-maker.

3:5.4 Of the 278 applications in the audit sample, 194 (70 per cent) had been approved for funding at the time of audit fieldwork. Of the 194 approved projects in ANAO's sample, 180 had Funding Agreements in place by the completion of audit fieldwork. On average, Regional Partnerships was the single largest funding partner for the contracted projects, being contracted to contribute 41 per cent of cash funds identified in the respective Funding Agreements.[392] In this respect, there were:

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[392] In June 2007, DOTARS advised ANAO that: 'the Department notes that this percentage is consistent with the Regional Partnerships Guidelines as approved by the Ministerial Committee'.

- 34 projects (19 per cent) where the only parties identified as providing cash to the project were the applicant and the Regional Partnerships Programme. Significant amongst these were projects being undertaken by for-profit entities, with 12 of the 19 contracted projects from for-profit entities (63 per cent) in the audit sample being represented in this cohort; and
- 57 projects (32 per cent) where the applicant was identified as providing less than 10 per cent of the funds for the project. For 27 of these projects (15 per cent), the applicant did not propose to make any financial contribution to the project costs.

Funding Agreement framework

3:5.5 The AGS *Guide to the Australian Government's Standardised Funding Agreements* sets out the following with regard to each Standardised Agreement:

> The Long Form Agreement has been designed for use with projects with a value of more than $50 000. The Long Form Agreement has been couched in the form of a traditional contract
>
> …
>
> The Short Form Agreement is recommended for use with projects with a value between $5000 and $50 000, however, the final decision about the form of funding agreement to be used rests with the agency providing the funding. The Short Form Agreement contains a less extensive list of provisions than the Long Form Agreement.

3:5.6 In this respect, correspondence from DOTARS to ACC Chairs in June 2003 regarding the Standardised Funding Agreements stated as follows:

> Standardised Funding Agreements (contracts) provide a model for Commonwealth departments to use when developing their own funding agreements for grants to community organisations. They will encourage a more consistent approach to funding agreements between different departments and make it easier for organisations to manage funding they receive from the Commonwealth Government.
>
> The Department of Transport and Regional Services (DOTARS) will be using the Standardised Funding Agreements as the basis for funding agreements under *Regional Partnerships…*
>
> There are three forms of the Agreements—a long form, a short form and a minimalist form. We anticipate that funding agreements under *Regional Partnerships* will generally be based on the long form which is in traditional

contract style. For this reason, the long form of the Agreement only has been placed on the website. The long form should be given to anyone making enquiries about the Agreements.[393]

3:5.7 Consistent with this advice, from June 2004, the Internal Procedures Manual had included a table of project risk thresholds. Among other things, this table outlined that the Long Form Standardised Funding Agreement was to be used for all Regional Partnerships projects, irrespective of the type of applicant entity and the amount of Regional Partnerships funding being provided. In ANAO's sample of 180 approved projects that had a Funding Agreement in place at the completion of audit fieldwork:

- 149 projects (83 per cent) had Agreements based on the Long Form Standardised Funding Agreement. Those projects involved Regional Partnerships funding of between $8279 and $2 200 000 (plus GST);
- 30 projects (17 per cent) had Agreements based on the Short Form Standardised Funding Agreement. Those projects involved Regional Partnerships funding of between $5000 and $250 000 (plus GST); and
- one project, RP00833 Christmas Island Mobile Upgrade Project, had a Memorandum of Understanding in place for a grant amount of $2 500 000 (plus GST).

Effect of the form of Agreement on the management of partner contributions

3:5.8 Once funding is approved for a project, DOTARS prepares the Funding Agreement for signature. The Long Form Standardised Funding Agreement provides an effective means through which DOTARS is able to manage partnership contributions to the approved project. Specifically, in the Long Form Standardised Funding Agreement used in the Regional Partnerships Programme for the first four years of the Programme to June 2007:

- Annexure A to Schedule 1 of the Funding Agreement included the project budget. This budget outlined:
  - the amount of Regional Partnerships funds being contributed to the project, and any GST payable on these funds;

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[393] The Short Form Standardised Funding Agreement was subsequently also placed on the website.

  - the identity of other partners providing cash and the GST exclusive amount of their contribution; and
  - the name and description of any in-kind contributions;
- clauses in the body of the Funding Agreement (Clauses 6.1 and 6.2) required written confirmation of all partner contributions within 20 business days of the date of the Funding Agreement, otherwise the Funding Agreement would be treated as void and as having never been entered into;
- a clause (Clause 6.3) required the funding recipient to use all reasonable endeavours to provide or obtain the partner contributions;
- a clause (Clause 6.5) in the body of the Funding Agreement required the funding recipient to inform DOTARS in writing within 10 business days of entering into any arrangement under which the funding recipient was entitled to receive any additional partner contributions not specified in Annexure A to Schedule 1 of the Funding Agreement; and
- a clause (Clause 9.2) required that the financial acquittal for the project include:
  - an audited detailed statement of receipts and expenditure in respect of Regional Partnerships funds and all other contributions;
  - an audited statement that the Regional Partnerships funding and other contributions were expended for the purpose of the Activity and in accordance with the Agreement; and
  - a certificate from the funding recipient that all Regional Partnerships funding and other contributions were expended for the purpose of the Activity and in accordance with the Funding Agreement.

3:5.9 The Short Form Standardised Funding Agreement contained a less extensive list of provisions than the Long Form Standardised Funding Agreement. This is particularly significant in terms of the framework provided for the administration and acquittal of partnership contributions. Specifically, the Short Form Standardised Funding Agreement does not include clauses addressing:

- the administration of partner contributions (Clause 6 in the Long Form Standardised Funding Agreement); or
- the audited acquittal of partner contributions (Clause 9 in the Long Form Standardised Funding Agreement).[394]

3:5.10 Of the 30 projects in ANAO's sample where the Short Form Standardised Funding Agreement had been used, 20 (67 per cent) involved Regional Partnerships funding of less than $25 000 (plus GST). A further six (20 per cent) involved Regional Partnerships funding of greater than $25 000 (plus GST) but less than $50 000 (plus GST). Accordingly, the majority of instances where the Short Form Standardised Funding Agreement was used in ANAO's sample involved funding amounts that were consistent with AGS guidance on the appropriate circumstances to use the Short Form Agreement (albeit that this was inconsistent with the procedures set out in DOTARS' Internal Procedures Manual).

3:5.11 Two of the remaining four projects where the Short Form Standardised Funding Agreement had been used involved non-profit applicant organisations. The remaining two projects in respect of which DOTARS used the Short Form Standardised Funding Agreement both involved Regional Partnerships funding of $250 000 (plus GST). One of these, RP01459 Sakai/CIC Business and Export Development project is the subject of an ANAO case study. In June 2007, DOTARS advised ANAO that the Short Form Standardised Funding Agreement had been used for that project in error. The funding recipient has nevertheless co-operated with DOTARS' requests that it provide additional reporting.

3:5.12 The second instance in the audit sample of Regional Partnerships funding of $250 000 being administered through a Short Form Standardised Funding Agreement involved RP02061 International Historical Aircraft Restoration Centre. This project was to construct a new and expanded international historic aircraft restoration centre at Illawarra Regional Airport for use by the Historical Aircraft Restoration Society Inc's aircraft restoration subsidiary. The project, approved by the then Minister for Transport and Regional Services on 13 October 2005, involved cash co-funding of $500 000 ($400 000 from the applicant and $100 000 from Clubs NSW), together with assessed in-kind contributions of $268 500.

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[394] Instead, the Short Form Standardised Funding Agreement requires an unaudited summary of expenditure of cash contributions from the applicant and other funding partners.

3:5.13 The Short Form Standardised Funding Agreement for this project was signed on 28 November 2005. As a result of being a Short Form Agreement, similar to RP01459, it did not include clauses that enabled DOTARS to appropriately manage, monitor and obtain an audited acquittal for the partner contributions involved, which the project assessment provided to the then Minister on 13 October 2005 had advised were 'excellent'.

Changed internal procedures

3:5.14 Section 6 of the revised Regional Partnerships Internal Procedures Manual provided to ANAO by DOTARS in May 2007 included revised procedures on the type of Funding Agreement to be used for particular projects. Specifically, Section 6.1.5 states that:

> The Long Form Funding Agreement is used for projects over $50 000 or any project that is assessed as high risk. Selecting the right Funding Agreement is an important aspect of managing the risks.

3:5.15 Rather than the project risk thresholds included in earlier versions, the revised Internal Procedures Manual included three criteria to assist Regional Office staff to decide what form of Funding Agreement should be used. Specifically, the revised Manual advises:

- where the Regional Partnerships Programme is contributing $50 000 (plus GST) or more to the project, the Long Form Standardised Funding Agreement should be used;
- where the Regional Partnerships Programme is contributing $50 000 (plus GST) or less to the project and the project is assessed as high risk, the Long Form Standardised Funding Agreement should be used; and
- where the Regional Partnerships Programme is contributing $50 000 (plus GST) or less to the project and the project is assessed as low or medium risk, the Short Form Standardised Funding Agreement should be used.

3:5.16 The revised procedures require that the Short Form Standardised Funding Agreement only be used for small Regional Partnerships grants that are assessed as a low or medium risk. In this context, each of the 30 projects in the audit sample governed by a Short Form Standardised Funding Agreement was signed after June 2004, the date from which the documented internal procedures required that the Long Form Standardised Funding Agreement be used for all projects, irrespective of the nature of the funding recipient and the quantum of approved Regional Partnerships funding. Accordingly, the key to improved administrative performance in this area will remain the extent to which the revised documented procedures are adhered to. In respect to guidance to Regional Office staff on the criteria by which a project is to be assessed as low, medium or high risk for the purposes of selecting the appropriate Funding Agreement, DOTARS advised ANAO in July 2007 that:

> If a project is approved for funding the department's National Office will send information to the relevant Regional Office, in the form of a Risk Analysis Table, highlighting the identified risk and proposed treatments through the Funding Agreement. Additionally, the Department has recently completed risk assessment training for assessors. Changes have also been made to Section 6.1.5—Funding Agreement Type of the Procedures Manual to ensure that risk rating is considered when choosing the Funding Agreement type.

Incorporating partner contributions into the Funding Agreement

3:5.17 ANAO's sample included 180 projects that had been approved for funding and had a Funding Agreement in place at the end of ANAO fieldwork. In aggregate, these projects sought $35.73 million in Regional Partnerships funds. In its project assessments, DOTARS advised the relevant Ministerial decision-maker that the applicants and/or other partners were to make aggregate cash contributions of $105.11 million. This meant that the applications proposed that, on average, Regional Partnerships would contribute 25 per cent of project cash costs. Put another way, for the applications in ANAO's sample, applicants and other partners proposed to contribute $2.94 for every $1 of Regional Partnerships funds.

3:5.18 In respect to 15 projects in ANAO's sample, partial funding only was approved. As a consequence, the Regional Partnerships funds approved for the 180 projects was, in aggregate, four per cent lower than the funds sought by the successful applicants, at $34.29 million, with the applicants and/or other project partners being expected to make up the difference or the project scope being reduced, with total partner contributions of $105.72 million. In terms of cost sharing, the amount of Regional Partnerships funding approved represented 24 per cent of total project costs with applicants and other project partners being expected to contribute $3.08 for each $1 of approved Regional Partnerships funds.

3:5.19 In aggregate, the Funding Agreements subsequently executed in respect to 180 projects in ANAO's sample specified applicant and other partner contributions of $93.62 million. This was $12.10 million (some 11 per cent) less than the amounts that formed the basis of the Ministerial approval of funding for the projects. This meant that, based on the executed Funding Agreements, the Regional Partnerships Programme was contracted to contribute 27 per cent of total project costs (up from the 24 per cent approved by Ministers), with applicants and other project partners being contracted to contribute $2.74 for each $1 of approved Regional Partnerships funding, down from the $3.08 ratio approved by Ministers, and the $2.94 ratio proposed in the respective applications (see Table 3:5.1).

Table 3:5.1

Summary of proposed, approved and contracted cash contributions for 180 projects in ANAO sample with a Funding Agreement

Funding Partner	Proposed in application, as reflected in departmental assessment	Approved by Ministerial decision-maker	Specified in signed Funding Agreement
Regional Partnerships	$35 732 916	$34 289 548	$34 119 716
Applicants and other partners	$105 109 241	$105 715 109[A]	$93 618 707
Total cash	**$140 842 157**	**$140 004 657[B]**	**$127 738 423**
Regional Partnerships as percentage of total	25%	24%	27%
Ratio of other contributions to each dollar of Regional Partnerships funding	$2.94	$3.08	$2.74

Notes:

[A] Increased contribution from other partners due to partial approval of Regional Partnerships funding for 15 projects.

[B] Reduction in total cash contribution of $837 500 due to reduction in project scope (and required contribution from other parties) for three projects—RP01058, RP00365 and RP00299.

Source: ANAO analysis of project assessments and Funding Agreements.

3:5.20 Of the 180 projects in ANAO's sample, there were 47 projects (26 per cent) where the executed Funding Agreement did not reflect the partner cash funding arrangements that assisted to form the basis of the Ministerial decision to approve Regional Partnerships funding. Of these:

- 33 projects had Funding Agreements specifying applicant and other partner contributions less than the amount that formed the basis of Ministerial approval, involving an aggregate reduction in partner co-funding of $13 531 063; and

- 14 projects had Funding Agreements specifying applicant and other partner contributions greater than the amount that formed the basis of Ministerial approval, involving an aggregate increase in partner co-funding of $1 435 161.

3:5.21 Consequently, over one quarter of the Funding Agreements in ANAO's sample prepared and executed by DOTARS did not reflect the partnerships funding arrangements that assisted to form the basis of the Ministerial funding approval. As noted, the net fall in partnership contributions between Ministerial approval and Funding Agreement was more than $12 million (11 per cent). In other instances, changes were made to the identity of the funding partners.

3:5.22 There were various reasons for the co-funding included in Funding Agreements differing from that approved by the Ministerial decision-maker(s). These included the correction of errors that had been included in the assessment put forward for Ministerial consideration by DOTARS; post-approval confirmation deficiencies; changes made to the project after funding was approved; and errors by DOTARS in the preparation of the Funding Agreement.

Including partner contributions in the project budget

3:5.23 As noted at paragraph 3:5.8, the Long Form Standardised Funding Agreement used for most Regional Partnerships projects during the period examined by ANAO provided the means through which DOTARS was able to manage partnership contributions to the approved project. In addition, as outlined in Chapter 4 in this part of the audit report, in circumstances where Regional Partnerships funding had been approved conditional upon partnership contributions being confirmed, the Long Form Standardised Funding Agreement included an optional clause such that the first instalment of Regional Partnerships funds was not to be paid until partnership contributions (and/or other conditions on the approval) had been confirmed.

3:5.24 Each of the clauses outlined at paragraph 3:5.8 and the optional clause making confirmation of co-funding a pre-condition to receiving any payments of Regional Partnerships funds was given effect by an annexure to the Funding Agreement Schedule that specified the project budget. This annexure identified the amount of Regional Partnerships funding and the budget items on which the funds may be spent, together with any GST payable on the Regional Partnerships funding. The annexure was also to include:

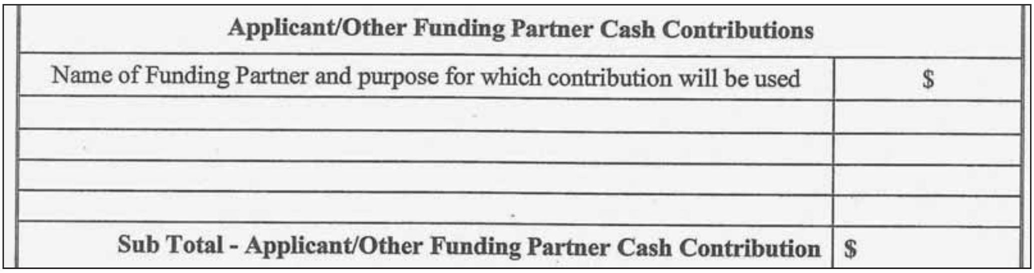
- the identity of other partners providing cash contributions, the purpose of their contribution and the GST exclusive amount of this contribution; and
- the name and description of any in-kind contributions.

3:5.25 The effectiveness of the clauses referred to at paragraphs 3:5.8 and 3:5.24 as a Funding Agreement management device depends on partner contributions being accurately and completely included in the annexure to the Funding Agreement Schedule. However, the audit sample included a number of instances where the annexure to the Funding Agreement Schedule did not promote the achievement of the partnership co-funding arrangements endorsed by the Ministerial decision-maker.

3:5.26 For example, in respect to RP00289 Australia's National Mineral Water and Bathhouse Facility project, Regional Partnerships funding of $500 000 was approved on 1 April 2004 on the basis of advice from DOTARS that the project had significant cash contributions from State and Local Government and a non-profit organisation totalling $6.8 million. However, as illustrated by Figure 3:5.2, the Regional Partnerships Funding Agreement signed on 26 May 2004 did not identify any project partners or the amounts they were to contribute. In June 2007, DOTARS advised ANAO that this had been due to an omission during the Agreement's preparation.

Figure 3:5.2

RP00289 Australia's National Mineral Water and Bathhouse Facility: Partner co-funding included in the annexure to the Funding Agreement Schedule



Applicant/Other Funding Partner Cash Contributions	
Name of Funding Partner and purpose for which contribution will be used	$
Sub Total - Applicant/Other Funding Partner Cash Contribution	$

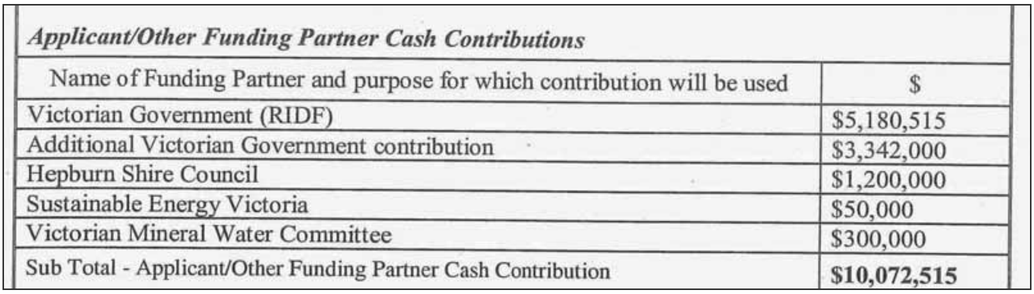
Source: Regional Partnerships Funding Agreement signed on 26 May 2004.

3:5.27 The ANAO case study of this project was provided to DOTARS in April 2006. To address various issues raised by ANAO in respect to this project, and the extensive delay in commencing the project, the Funding Agreement was varied on 18 October 2006. At this time, the deficiency in the

May 2004 Funding Agreement concerning the identification of partners and their contributions was addressed (see Figure 3:5.3). Specifically, the annexure to the amended Funding Agreement Schedule now includes the partner contributions that should have been included in the Funding Agreement signed in May 2004, as well as additional funds that have been obtained since Regional Partnerships funding was approved to assist in meeting the increasing costs of the project.

Figure 3:5.3

RP00289 Australia's National Mineral Water and Bathhouse Facility: Partner co-funding included in the amended annexure to the Funding Agreement Schedule



Applicant/Other Funding Partner Cash Contributions

Name of Funding Partner and purpose for which contribution will be used	$
Victorian Government (RIDF)	$5,180,515
Additional Victorian Government contribution	$3,342,000
Hepburn Shire Council	$1,200,000
Sustainable Energy Victoria	$50,000
Victorian Mineral Water Committee	$300,000
Sub Total - Applicant/Other Funding Partner Cash Contribution	**$10,072,515**

Source: Regional Partnerships Deed of Variation to the Funding Agreement signed in October 2006.

3:5.28 In addition to not including some or all project partners in the annexure to the Funding Agreement Schedule, the ANAO sample included instances where DOTARS had:

- prepared Funding Agreements that accumulated multiple individual funding partners into a single entry in the annexure to the Funding Agreement Schedule, rendering the clauses relating to the confirmation and acquittal of partner contributions, in their terms, difficult to administer and enforce;
- prepared the Funding Agreement based on out-dated information. Specifically, changes to partnership contributions (either the partner or the amount) that had been advised to DOTARS were not reflected in the Funding Agreement subsequently executed, such that the Agreement required the funding recipient to obtain partner contributions that it has already advised the department it was unable to secure; and

- prepared Funding Agreements that incorrectly identified a funding partner.[395]

3:5.29 In some instances the Funding Agreement specified an increased applicant contribution to that proposed in the application for funding. There were also instances where DOTARS prepared the annexure to the Funding Agreement Schedule so as to include the quantum of the applied for, but not approved, Regional Partnerships funding with the Agreement not identifying the party that would contribute the remaining funds. Figure 3:5.4 shows an example of this, in which the then Parliamentary Secretary had approved partial Regional Partnerships funding of $32 000 (plus GST—compared to the $76 448 applied for), on condition that the for-profit applicant made up the shortfall of $44 448.[396]

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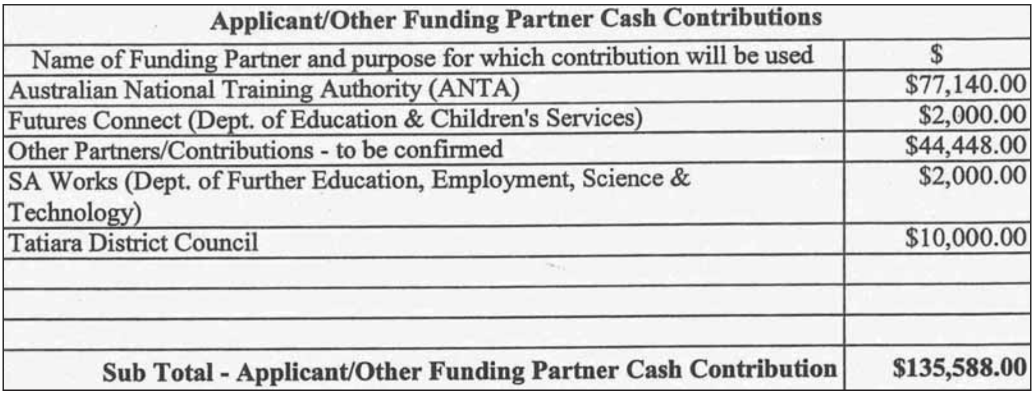
[395] For example, in respect to RP01007 Salad Sprinkles Production Facility, the project assessment advised the Ministerial decision-maker that the Regional Partnerships bid of $63 139 (plus GST) represented 17 per cent of project cash costs with the applicant contributing the remaining $301 960, of which $170 000 was to be obtained through bank finance. However, the Funding Agreement identified an applicant contribution of $131 960 with the nominated bank identified as a funding partner that would be contributing $170 000 cash to the project. By way of comparison, the project assessment for RP01826 The Limestone Coast Cheese Company advised the Ministerial decision-maker that all of the applicant contribution of $205 944 was being obtained through bank finance with the Funding Agreement identifying an applicant contribution of $205 944 with no other cash partners.

[396] DOTARS had recommended partial funding subject to the applicant and/or other partners providing the balance of funds required. The then Parliamentary Secretary approved the partial funding, but altered the condition to require the for-profit applicant to meet the funding shortfall itself. As shown in Figure 3:5.4, the Funding Agreement executed by DOTARS did not accurately reflect this funding condition. Instead, it reverted to the original departmental recommendation, and required the funding shortfall to be met by the applicant or other (unnamed) sources. This error arose due to the Regional Office preparing the Agreement on the basis of an unsigned copy of the draft letter to the applicant advising of the conditional partial funding provided to the then Parliamentary Secretary by DOTARS with its assessment, rather than obtaining a copy of the amended letter actually signed by the Parliamentary Secretary, which included the revised funding condition. In this respect, the funding recipient advised DOTARS in April 2006 that project costs had increased and that: ‘At this stage we are unable to fund the balance of the project due to a decrease in business as a result of high fuel prices & economic down turn in the transport & agriculture industries. We have attempted to source other funding, but so far have not been successful.’

Figure 3:5.4

RP01500 Limestone Coast Transport Industry Skills Training Centre: Partner co-funding included in the annexure to the Funding Agreement Schedule



Applicant/Other Funding Partner Cash Contributions	
Name of Funding Partner and purpose for which contribution will be used	$
Australian National Training Authority (ANTA)	$77,140.00
Futures Connect (Dept. of Education & Children's Services)	$2,000.00
Other Partners/Contributions - to be confirmed	$44,448.00
SA Works (Dept. of Further Education, Employment, Science & Technology)	$2,000.00
Tatiara District Council	$10,000.00
Sub Total - Applicant/Other Funding Partner Cash Contribution	**$135,588.00**

Source: Regional Partnerships Funding Agreement signed on 30 August 2005.

Seeking Ministerial approval for post-approval changes to partner contributions

3:5.30 As noted, in May 2007, the Ministerial Committee delegated to the department responsibility for approving minor variations for approved projects, provided that the total funding does not exceed the amount approved, that all funding conditions are met, and that partnerships remain within the limits of the Programme Guidelines. Prior to such a delegation coming into effect, FMA Regulation 13 required that DOTARS seek Ministerial approval for any changes in partner funding arrangements from those identified in the spending proposal approved by the Ministerial decision-maker. This is because:

- where the amount of partner funding reduces, the Regional Partnerships Programme is making a greater proportional contribution to project costs than was agreed by the decision-maker when funding was approved;
- where the amount of partner funding increases, it may raise questions about whether other funding sources had been exhausted before Regional Partnerships funding was sought; and
- where the identity of partners changes, questions may be raised in respect to whether the appropriate funding stakeholders are involved and whether their level of funding contribution is appropriate.

3:5.31 However, DOTARS has not had effective procedures in place to consistently prepare Funding Agreements that have reflected the partner funding arrangements endorsed by the Ministerial decision-maker and, where changes have been necessary, seeking Ministerial approval.

3:5.32 In a number of instances, the department advised the applicant that it would need to obtain agreement from the Ministerial decision-maker to changes that occurred after approval of funding, but before the Funding Agreement was signed. For example, in respect to RP00601 Skills Centre training/operation equipment, DOTARS' North Queensland Regional Office advised the applicant on 23 September 2005 that:

> Your application for Regional Partnerships funding for this Project was approved on the basis of the State Government contributing $132 323.00 to the Project. DOTARS will not enter into a Funding Agreement with you until the State Government funding is secured.
>
> If you intend to replace the State Government's contribution of $132 323.00 with funding from another source, you will need to write to us, explaining the circumstances. Based on the information you provide, the Minister will need to decide whether Regional Partnerships funding is approved for the project. Note that in these circumstances, the amount of Regional Partnerships funding approved for the project could also change.
>
> If you do not have a source of funding to provide the necessary $132 323.00 this changes the scope of the project. In this case, the current application will need to be withdrawn and a new application submitted.

3:5.33 Similarly, in relation to the Tumbi Creek Dredging project, once the department had reached an in-principle agreement with the applicant on the key matters of clarification in relation to the original approvals that had been provided by the then Parliamentary Secretary in June and July 2004 (being the proportion of the project costs each party was to contribute, the manner in which any savings in project costs would be shared by the parties and the extent to which Regional Partnerships funding could be allocated to Council activities such as road works), these proposed terms, and advice regarding the revised project scope, were submitted to the Ministerial Committee in early 2006 for its consideration and approval before DOTARS considered it was able to execute a Funding Agreement giving effect to that proposal.

3:5.34 However, in the audit sample, it was more common in such situations for the department to sign a Funding Agreement that departed from the partner funding arrangements advised to the Ministerial decision-maker without obtaining approval from the decision-maker. For example, in some instances, a reduction in cash contributions from applicants and/or other partners as specified in the Funding Agreement compared to advice provided to the Ministerial decision-maker reflected the correction of errors made by DOTARS in its project assessment and advice to the Ministerial decision-maker. However, DOTARS' procedures did not include advising Ministers of these changes, and seeking confirmation of the previous decision to approve funding for the project. For example, in neither of the following two projects was the Ministerial decision-maker(s) advised of such errors and given the opportunity to confirm, or not, their approval of Regional Partnerships funding:

- in relation to RP01758 Geraldton Marine Service Centre, DOTARS' assessment provided to the then Minister in August 2005 reported that the applicant and other partners were contributing $4 022 000 to the project such that the Regional Partnerships Programme bid of $980 000 (plus GST) represented 20 per cent of project cash costs. In fact, the Regional Partnerships application specified that the applicant and other project partners were contributing $2 011 000 in cash to the project, exactly half of the amount advised to the then Minister. On this basis, Regional Partnerships was actually being asked to fund 33 per cent of estimated cash costs; and
- in respect to RP02295 International Coal Centre, DOTARS' April 2006 assessment provided to the Ministerial Committee advised that the Regional Partnerships bid of $2 000 000 (plus GST) represented 16 per cent of total project costs and 16 per cent of cash costs. However, DOTARS' assessment incorrectly included a contribution of $3 181 421 from an Allied Industries Contribution and Tourism grant, although the applicant had not included any contribution from this entity in its application. The error was identified after Ministerial approval had been obtained and the contribution was not included in the Funding Agreement, such that the relative Regional Partnerships contribution was specified at 22 per cent of total project cash costs.

3:5.35 There were other instances in ANAO's sample where the identity of partners and/or the amount of their contribution changed after Regional Partnerships funding was approved, but DOTARS did not provide further advice to the Ministerial decision-maker(s). As noted in paragraph 3:4.105, in these types of circumstances DOTARS has not met its obligations under FMA Regulation 13 to enter into a Funding Agreement that is consistent with the terms of the Ministerial approval of the spending proposal given under FMA Regulation 9.

In-kind contributions

3:5.36 Similar to the situation with respect to partner cash contributions endorsed by Ministers when approving Regional Partnerships funding for projects, in the three years examined by ANAO, DOTARS had also not had effective procedures to consistently and accurately translate in-kind contributions nominated in the spending proposal approved by the Ministerial decision-maker into the Funding Agreement.

3:5.37 In this respect, of the 180 projects in ANAO's sample where a Funding Agreement was in place at the time of audit fieldwork, 142 (79 per cent) had been approved on the basis of a project assessment that identified one or more in-kind contributions to the project. However, the Funding Agreements for 80 of these 142 projects (56 per cent) included in-kind contributions that differed from the arrangement advised to the Ministerial decision-maker at the time Regional Partnerships funding was approved. These differences reflected, amongst other things, significant variability in practice in terms of whether the assessed value for the nominated in-kind contribution was included in the Funding Agreement. Specifically, for 44 of the projects approved on the basis of one or more in-kind contributions, no value for such contributions was included in the Funding Agreement.

3:5.38 Notwithstanding that, as noted, for 56 per cent of relevant projects examined by ANAO the department had included a value for in-kind contributions in the Funding Agreement. In October 2007 DOTARS advised ANAO that:

> The revised Funding Agreement [*released for use on 27 August 2007*] requires the in-kind contributions to be identified in terms of who is contributing and what they intend to contribute. This is also covered in Section 4.3.5 of the draft version of the updated Procedures Manual. It is not realistic to expect the estimated value of the in-kind contribution to be included in the Funding Agreement as there is no exact means of verifying the value of the in-kind contribution. Hence, it is also not reasonable to expect the in-kind contribution to be audited.

3:5.39 This perspective also does not reflect that in-kind contributions are able to be quantified (for example, land may be market-valued), as reflected by project assessments provided to Ministers including values for such contributions.

Revised internal procedures

3:5.40 In December 2006, DOTARS advised ANAO that it had re-emphasised the need for partner contributions to be incorporated into the Funding Agreement in the revised Internal Procedures Manual then under development. In this respect, Section 6: *Funding Agreement Development and Execution* of the revised Internal Procedures Manual provided by DOTARS to ANAO in May 2007 included procedures that:

- the Funding Agreement must be based on the decisions made by the Ministerial Committee;
- when preparing the Funding Agreement, Regional Office staff must establish whether anything relating to the project has altered since the application was submitted and approved, such as scope, timeframes, funding partners and cost escalations;
- milestone descriptions included in the Funding Agreement must not vary in substance the project intent, outcomes and partnerships from that approved by the Ministerial Committee; and
- the official delegated to sign the Funding Agreement should, before signing, review the Agreement to ensure a range of requirements are met, including that the project budget included in the annexure reflects all partner contributions.

3:5.41 In addition, Section 7: *Funding Agreement Management and Completion* of the revised Internal Procedures Manual provided by DOTARS to ANAO in May 2007 included a section addressing Funding Agreement Variations, including where a variation is sought to reduce the level of partner funding or remove or substitute a partner. The section states that:

> Regional Office staff, in consultation with the Regional Manager and Area Manager, should consider seeking Ministerial Committee approval for a variation where the funding recipient requests:
>
> - additional funds, including any request to use interest earned on Regional Partnerships funds
> - significant changes to funding partners such as withdrawal of State/Territory governments or local councils
> - significant changes to the level of partnership funding, or
> - changes to the activities or items Regional Partnerships is funding.

3:5.42 An updated revised Internal Procedures Manual provided to ANAO by DOTARS in October 2007 identified those types of project variation requests in respect of which departmental officials hold a delegation and those that must be referred to the Ministerial Committee.

3:5.43 In addition to revised internal procedures, in July 2007 the department advised ANAO of training that has been undertaken to address the audit findings, as follows:

> The department notes that the issues identified in paragraphs 3:5.25, 3:5.28 and 3:5.29 are being addressed through the extensive training that is being run on the preparation and management of Funding Agreements in addition to a revised Funding Agreement which was implemented as of 1 July 2007. The department also notes, however, that with some projects there may be a number of individual partners who commit to contribute small amounts to the community project. It is recognised that in these situations listing each individual contributor in the application/Funding Agreement may neither be practical nor efficient and that some amalgamation of these contributors into a single 'community contribution' may be more appropriate.

3:5.44 In addition, also in July 2007, DOTARS advised ANAO that it would be adopting a performance indicator in its administration of the Programme relating to the extent to which partner contributions included in the Funding Agreement accord with those endorsed by the Ministerial decision-maker(s).

Obtaining complete and reliable statements of receipts and expenditure for acquitted projects

3:5.45 As noted at paragraph 3:5.8, Clause 9.2 in the Long Form Standardised Funding Agreement used in the first four years of the Programme required that the financial acquittal for a project include:

- an audited detailed statement of receipts and expenditure in respect of Regional Partnerships funds and all other contributions;
- an audited statement that the Regional Partnerships funding and other contributions were expended for the purposes of Activity and in accordance with the Agreement; and
- a certificate from the funding recipient that all Regional Partnerships funding other contributions were expended for the purpose of the Activity and in accordance with the Funding Agreement.

3:5.46 ANAO's sample included 86 projects where the project had been completed and acquitted to DOTARS' satisfaction. However, in 19 instances (22 per cent), DOTARS had not obtained a detailed statement of project receipts and expenditure, including identifying all realised partnership contributions. This indicates that effective administration of this aspect of the Funding Agreement had not been a consistent feature of the administration of the Programme. It also means that DOTARS has not been well placed in its Programme evaluations to undertake reliable analysis of Programme partnership and other outcomes.

Obtaining acquittal information on partner cash contributions

3:5.47 For the 19 projects where DOTARS had not obtained from the funding recipient an acquittal that included details of partner cash contributions and total project expenditure, the terms of the respective Funding Agreements had specified that:

- 13 of the 19 applicants were expected to contribute cash to the project, with expected applicant cash contributions identified in the Funding Agreement totalling $1 729 171 for the 13 projects;
- in addition to applicant contributions, a total of 38 partners would contribute in aggregate $1 658 649 to 17 projects; and
- Regional Partnerships was to contribute $3 577 555 to the 19 projects.[397]

3:5.48 As illustrated by Figure 3:5.5, in these circumstances, DOTARS had not administered the respective Funding Agreements in a manner that demonstrated that the project was delivered in accordance with the partnership arrangements specified in the Funding Agreement for 22 per cent of the projects in ANAO's sample that had been completed to DOTARS' satisfaction.

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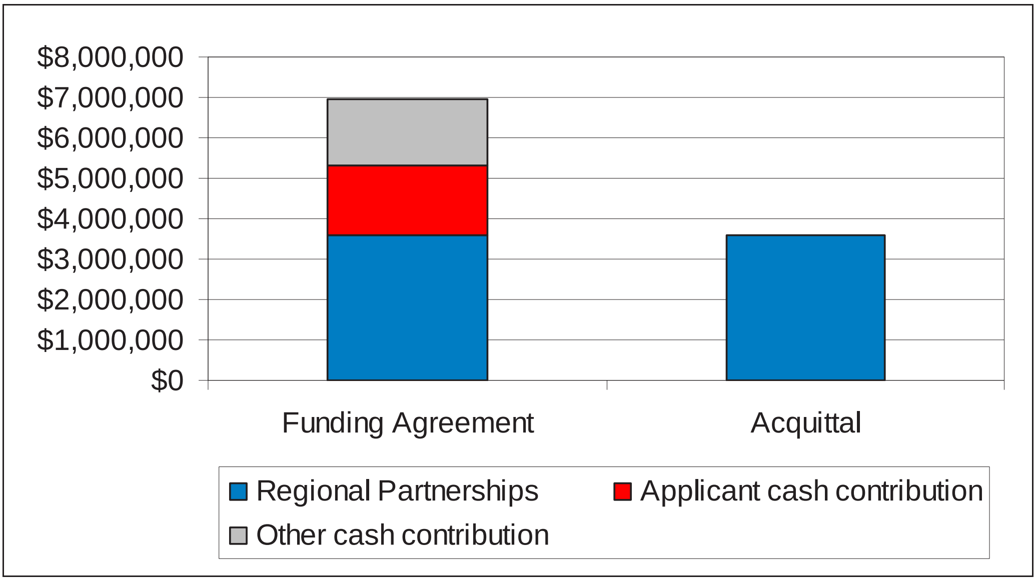
[397] Regional Partnership funds of $3 571 889.88 were acquitted. Due to project costs being lower than anticipated, for two projects the final Regional Partnerships payment was reduced accordingly. In addition, the Funding Agreement for RP00952 Jimbour Amphitheatre was for $104.05 more than approved by the Ministerial decision-maker, and the final Regional Partnerships payment was subsequently reduced by this amount.

Figure 3:5.5

Audited projects where DOTARS did not require that actual partnership contributions be accounted for in the accepted project acquittal



Source: ANAO analysis of DOTARS records.

3:5.49 The importance of obtaining complete and accurate financial acquittal information in respect to partnership contributions was illustrated by ANAO's examination of RP00886 Caliguel Lagoon Redevelopment project. That project involved a Regional Partnerships grant of $30 000 (plus GST). However, despite the requirements of the Funding Agreement, DOTARS had not obtained an audited statement of receipts and expenditure for the completed project prior to making the final payment and closing the project. In fact, no financial report or other financial information was obtained. DOTARS also did not obtain an auditor's certificate. This meant that DOTARS had:

- no evidence of the other partner contributions that had actually been received; and
- no evidence of the final project costs actually incurred.

3:5.50 Nevertheless, on the basis of the limited information it had received, DOTARS made the final payment to the Council funding recipient in March 2005. In this respect, DOTARS advised ANAO in June 2007 that:

> The Funding Agreement obliges funding recipients to acquit the expenditure of Regional Partnerships funds against the items for which the funds were provided. The payment of Regional Partnerships funds is not necessarily

dependent on all corresponding partnership funds being fully expended before Regional Partnerships funds are paid.

3:5.51 Data provided to ANAO by Council following ANAO's June 2006 site visit revealed that Council's contribution was $15 549 less than the amount specified in the Funding Agreement. This resulted from all project cost savings being retained by Council rather than being shared with its project partners. Council advised ANAO on 27 June 2006 that it had absorbed certain costs and made various in-kind and other contributions to the project. After allowing for an extra $6740 in eligible costs not attributed to the project in Council's financial system, the shortfall in the contracted cash partnership contribution by Council was $8809, representing six per cent of the project budget included in the Funding Agreement. As DOTARS had not required the funding recipient to provide the acquittal information required under the terms of the Funding Agreement, the department was not in a position to take this situation into account in its deliberations regarding the appropriate quantum of the final Regional Partnerships payment.

Revised internal procedures

3:5.52 A section of the revised Internal Procedures Manual issued to staff and provided by DOTARS to ANAO in May 2007 included a requirement for increased emphasis to be given to requiring funding recipients to provide a financial acquittal that identifies all project costs and all sources of funding for those costs, as well as confirming the partnership contributions specified in the Funding Agreement. Reinforcing the revised procedures, in July 2007, DOTARS advised ANAO that it was conducting training for all Regional Partnerships staff and that this training addresses all aspects of Funding Agreement management.

3:5.53 In addition, in June 2007, DOTARS provided ANAO with a copy of a recently developed Regional Partnerships reporting pack. This reporting pack included separate forms for:

- the acquittal of Regional Partnerships funding (and any interest earned by the funding recipient on these funds) and expenditure[398] of the Regional Partnerships funding on the cost items identified in the annexure to the Funding Agreement; and

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[398] Defined as cash payments made plus tax invoices held and cleared for payment but not yet paid.

- the acquittal of partnership cash contributions requiring each contributor to be identified together with the amount (if any) of their contribution included in the Funding Agreement, actual cash received from the partner and expenditure of those funds (comprising cash payments made and any tax invoices held and cleared for payment but not yet paid).

3:5.54 ANAO's analysis of the projects included in the audit sample is that separate acquittal of Regional Partnerships funding from other partner funding will not be possible for a significant proportion of Regional Partnerships projects. Specifically, it is often the case that the Regional Partnerships funding is combined with other partner funding to assist with meeting the overall costs of the project, or elements thereof. In circumstances where the project or elements of the project to which Regional Partnerships funding is contributing are not easily divisible from the remainder of the project, funding recipients will find it difficult to accurately attribute both the quantum and timing of expenditure between Regional Partnerships funding and other funding sources.

3:5.55 In July 2007, DOTARS advised ANAO that, where costs for a particular element are shared between Regional Partnerships and partner funding the funding recipient is expected to account for the expenditure of both Regional Partnerships funds and partner funds against the specific item. Having regard to the frequency with which this situation may be expected to arise, and past difficulties in this aspect of Funding Agreement management, there is merit in the Regional Partnerships reporting pack being amended to directly and simply address such circumstances.

3:5.56 On 30 July 2007, DOTARS provided ANAO with an amended reporting pack which included a requirement for funding recipients to identify the purpose for which other contributions had been received and expended. However, experience shows that some funding recipients may still encounter difficulties in accurately attributing, and separately acquitting, the cost of jointly funded cost items between Regional Partnerships and other contributions. Further, the approach of separate acquittal adopted under the reporting pack may enable funding recipients to attribute costs associated with jointly funded cost items to Regional Partnerships before attributing costs to the contributions required from themselves and/or other partners.

Sharing of cost savings

3:5.57 In June 2007, DOTARS advised ANAO that Ministers have determined that they approve funding up to a fixed amount and that this amount of funding is part of a partnership arrangement where partner funding has also been identified to the best estimate possible at the time. However, the approach taken in the Regional Partnerships Funding Agreements used in the first four years of the Programme, and the draft of a revised Long Form Standardised Funding Agreement provided by DOTARS to ANAO in June 2007, have specified Regional Partnerships funding as a fixed amount, not as a proportion of estimated project costs up to a fixed amount.

3:5.58 In this context, there was a high incidence in the audit sample of projects where partner contributions were acquitted as being less than that required under the Funding Agreement (37 per cent of projects where DOTARS had obtained a financial acquittal that included information on contributions made by funding partners). Notwithstanding this, and the advice provide to the Senate Committee with respect to the Tumbi Creek Dredging project, DOTARS has not had consistent procedures in place to address how any project cost savings are to be shared amongst project partners, including the Regional Partnerships Programme.[399]

3:5.59 In some instances, the reported under-contribution from project partners represented shortcomings in the financial acquittal rather than an actual deficiency in partner contributions. However, DOTARS had not scrutinised the acquittal provided by the funding recipient in order to identify the shortfall in reported partner contributions and undertake the inquiries that would have brought those shortcomings to light. This was illustrated, for example, by ANAO's examination of RP02039 Baralaba Swimming Pool Complex.

3:5.60 However, where the acquittal provided by a funding recipient reports lower than expected partner contributions, there is also a risk that the project has cost less than budgeted. Such circumstances were examined in four ANAO case studies, including three that are included in the Volume 3 of this audit report, as follows:

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[399] A recent performance audit of the National Black Spot Programme administered by DOTARS also identified issues associated with funding recipients completing projects at a cost less than budgeted and retaining all cost savings. See ANAO Report No.45 2006–07, *The National Black Spot Programme,* Canberra, June 2007.

- RP00936 Horse Australia 2005 (involving Regional Partnerships funding of $200 000 (plus GST)) where the financial acquittal accepted by DOTARS disclosed that project expenditure was $39 470[400] less than the project income of $577 903. On this basis, the final Regional Partnerships instalment of $10 000 (plus GST) paid in June 2005 should not have been made by DOTARS and consideration should have been given to recovering some of the second instalment;
- RP01578 Aerox Odour Control Filters for Grape Marc Separator/Dryer (involving Regional Partnerships funding of $393 636 (plus GST)) wherein the activity funded by the Regional Partnerships Programme was reported by the funding recipient as costing $103 221 less than the $1 178 003 received from DOTARS and contributed by the applicant. On this basis, the final Regional Partnerships instalment of $39 363.60 (plus GST) made in October 2005 by DOTARS should not have been paid and consideration should have been given to recovering some or all of the third instalment. In March 2007, DOTARS advised ANAO that:

  > While we accept that we have an obligation to verify that the acquittal is accurate, there is difficulty in questioning an acquittal that is accompanied by a signed statement from an auditor as above.
  >
  > The department is following up with the auditor to clarify the apparent anomalies.

- RP01101 Beef Australia 2006 (involving Regional Partnerships funding of $2 200 000 (plus GST)) wherein the final payment of Regional Partnerships funds was made in June 2006, notwithstanding that the funding recipient had provided financial information to the department which indicated a surplus of project receipts over project expenditure. Based on the information provided to DOTARS by the funding recipient (Beef Australia) as part of the administration and acquittal of the Regional Partnerships grant, ANAO's initial analysis was that project expenditure was at least $1.7 million less than actual and

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[400] In November 2007, Beef Australia advised ANAO that two transactions totalling $103 400 that were reported by Horse Australia (the funding recipient) to DOTARS in the financial acquittal as having been paid to Beef Australia for event management services had not been received by Beef Australia. Excluding these amounts increases the project surplus to $142 870.

budgeted project revenue.[401] In November 2007, Beef Australia provided ANAO with a one-page unaudited summary of actual project income (cash and in-kind) and project expenditure (cash and in-kind). In reliance on this additional information, updated ANAO analysis indicates a project surplus of $516 829.

3:5.61 Similar circumstances were identified in ANAO's examination of RP00199 Melton Shire Equine Park Feasibility Study (involving Regional Partnerships funding of $40 000 (plus GST)) with the remaining $25 000 (plus GST) in estimated project cash costs to be contributed by the applicant and four other project partners (although the Funding Agreement did not include a $1000 contribution that was to have come from one project partner). The final Regional Partnerships payment of $4000 (plus GST) was made by DOTARS in June 2005, notwithstanding that the financial acquittal received from the funding recipient had disclosed no financial contribution from the applicant and only $9000 in total partner cash contributions to the project;

3:5.62 In none of these instances was the shortfall in partner contributions identified and addressed by DOTARS as part of its management of the Funding Agreement. In each instance, the Regional Partnerships grant was fully paid, with no evidence of any attempt having been made by the department to secure a sharing of cost savings. In this respect, following ANAO's inquiries and case study in relation to RP00199, in April 2007 the funding recipient (Melton Shire Council) provided DOTARS with:

- data showing $46 789.72 in expenditure during the Activity Period nominated in the Funding Agreement of 15 March 2004 to 30 April 2005;
- data showing $5319.10 in expenditure relating to the launch of the project in February 2006, which is outside the Activity Period of 15 March 2004 to 30 April 2005; and

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[401] ANAO's initial estimate (undertaken relying on the financial information held by DOTARS) explicitly recognised that the surplus of $1.7 million would be reduced to the extent that:

- there was any project expenditure that was not reported to DOTARS;
- event revenue was less than budgeted; and/or
- partner contributions were less than were advised to DOTARS.

- advice that it ‘intends’ to have further copies of the report produced at a cost of approximately $10 000 ‘thus fulfilling Melton Shire Council's cash commitment to this project’.

3:5.63 This data and advice confirmed that, at the time the final Regional Partnerships instalment was paid, total project costs were $46 790 ($17 210 less than budgeted in the Funding Agreement), such that the final Regional Partnerships instalment should not have been paid and consideration should have been given to recovering some of the earlier instalment. However, in June 2007, DOTARS advised ANAO in relation to this project that:

> The Funding Agreement obliges funding recipients to acquit the expenditure of Regional Partnerships funds against the items for which the funds were provided. The payment of Regional Partnerships funds is not necessarily dependent on all corresponding partnership funds being fully expended before Regional Partnerships funds are paid.

3:5.64 Similar advice was provided with respect to RP00936 and RP01578.[402] By way of comparison, in respect to RP01101, in April 2007, DOTARS advised ANAO that it was seeking legal advice on whether:

- the funding agreement had been breached;
- the department had grounds to request the repayment of interest earned on the Regional Partnership funds paid in advance of need; and
- the department should be taking steps to recover the unacquitted funds paid that appear to be in excess of actual project costs.

3:5.65 In addition, the revised Internal Procedures Manual that has been released by DOTARS requires that the final payment of Regional Partnerships funds be reduced by any unspent amount or interest earned or, if necessary, recovery of funds be pursued. However, there are no clauses in the existing Long Form Standardised Funding Agreement or the draft revised Long Form Standardised Funding Agreement (intended to apply from 1 July 2007) that explicitly addresses the sharing of any cost savings. Legal advice to DOTARS in June 2007 was that:

- the existing standardised Funding Agreement does not make any provision for Regional Partnerships funding to be proportionally

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[402] The advice in respect to RP01578 excluded the comment that ‘The payment of Regional Partnerships funds is not necessarily dependent on all corresponding partnership funds being fully expended before Regional Partnerships funds are paid.’

reduced if partnership contributions are not forthcoming, but does enable DOTARS to suspend the payment of Regional Partnerships funds or terminate the Agreement; and

- Funding Agreements could be drafted to control the payment of Regional Partnerships funds in circumstances where partnership funding was not received in whole or part.

3:5.66 However, DOTARS advised ANAO in July 2007 that:

> A decision by any of the project funding partners, including the Commonwealth, to include as a condition of their funding the requirement that project costs savings be shared would appear to raise a number of issues, including:
>
> - Lack of certainty of terms, for example, if funding is specified as an ‘up to’ amount. Preliminary legal advice we have received is that the possible outcome of this may be that a contract would be void for uncertainty.
> - Ability to enforce the requirements of individual Funding Agreements that the recipient holds with each of the funding partners, to apply to all funding partners, given the doctrine of privity of contract. This is particularly relevant in terms of recovery of funding, for example, where all Regional Partnerships funding has been acquitted and expended in accordance with the Funding Agreement and the recipient has made cost savings as a result of a reduction in cost of other aspects of the project. It is not realistic to expect that a funding partner is going to agree to reducing their recoverable amount under any arrangement they have with the recipient to allow the recipient to redistribute those funds to the Australian Government as a reimbursement because of cost savings made on the activities they had agreed to fund—just as the Australian Government wouldn’t give up any savings accrued against its cost items, to share with other partners.

3:5.67 In relation to the second issue raised by DOTARS, as noted at paragraph 3:5.54, it is often the case that the Regional Partnerships funding is combined with other partner funding to assist with meeting the overall costs of the project, or elements thereof. In relation to the first issue, it is important to recognise that no concerns about the voidability of the Funding Agreement were raised in relation to the Tumbi Creek Dredging project. In relation to that project, the Senate Committee was advised by DOTARS that the department sought to ensure that any savings created by the subsequent partial clearing of the creek were appropriately returned to the Commonwealth.[403] In particular, DOTARS advised the Committee that:

> given that we were paying two-thirds of the project because the state government had not contributed, our expectation was that any reduction in costs would initially come from our component of the project until a fifty-fifty situation was reached.[404]

3:5.68 However, on 15 December 2005, DOTARS advised the Ministerial Committee that:

> Council did not accept this position, and suggested that the most effective means to maximise savings was for savings to accrue on the ratio of two thirds to the Australian Government and one third to the Council. This arrangement, they argued, would provide a strong incentive to effectively manage contracts to ensure savings accrued to both the Australian Government and the Council.

3:5.69 On 8 February 2006, the Ministerial Committee agreed to Regional Partnerships funding two thirds of total project costs up to an amount of $1.36 million (plus GST) and that any cost savings would accrue on the basis of two thirds to the Australian Government and one third to Council.[405]

3:5.70 In that context, ANAO considers that there would be benefits in DOTARS more widely including clear provisions in Regional Partnerships Funding Agreements to address circumstances in which funded projects are completed for less than was originally budgeted, including the sharing of any cost savings. As indicated by the Tumbi Creek project, one option that may be considered involves expressing the Regional Partnerships funding as a proportion of total project costs up to a capped amount.

Recommendation No.11

3:5.71 ANAO *recommends* that the Department of Transport and Regional Services further improve its management of contracted partner contributions to Regional Partnerships projects by including in Funding Agreements clear provisions to address circumstances where completed projects cost less than was budgeted, including the sharing of any significant cost savings.

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[403] Senate Committee Report, op. cit., p. 79.

[404] ibid.

[405] The Ministerial Committee also agreed to the department capping land fill and road fill costs at the amount stated in the application.

DOTARS response

3:5.72 Agreed.

Obtaining acquittal information on in-kind contributions

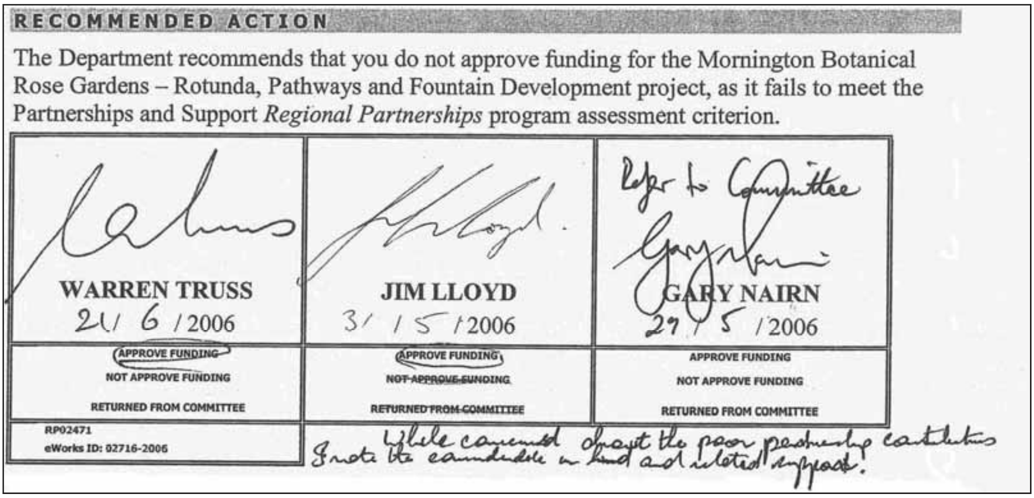
3:5.73 As outlined in Chapter 2 in this part of the audit report, in-kind partner contributions represented a relatively minor contribution for the majority of projects in the audit sample. However, there were 22 applications (eight per cent) in the audit sample where in-kind contributions represented half or more of the total project budget advised to the Ministerial decision-maker. Of the projects in the audit sample approved to receive Regional Partnerships funding, nine (five per cent) had been assessed as having in-kind contributions representing 50 per cent or more of the total project budget.

3:5.74 Similarly, seven per cent of all projects approved for Regional Partnerships funding between 1 July 2003 and 30 June 2006 had been assessed by DOTARS as having 50 per cent or more of the total project budget being represented by in-kind contributions.

3:5.75 There have also been instances where the in-kind contribution was not identified by the applicant or DOTARS as representing a significant proportion of project costs, but was nevertheless an important factor in the Ministerial decision to approve funding (including in instances where the department had not recommended funding be approved). For example, the departmental assessment submitted to the Ministerial Committee on 19 May 2006 in respect to RP02471 Mornington Botanical Rose Gardens—Rotunda, Pathways and Fountain Development recommended that the Committee not approve funding on the basis that the project failed to meet the partnerships and support criterion. The Committee decided to approve funding of $130 357 (plus GST) for the project at its 21 June 2006 meeting. As illustrated by Figure 3:5.6, an important factor in that decision was the level of nominated in-kind contributions.

Figure 3:5.6

RP02471 Mornington Botanical Rose Gardens—Rotunda, Pathways and Fountain Development: Ministerial Committee decision record



RECOMMENDED ACTION

The Department recommends that you do not approve funding for the Mornington Botanical Rose Gardens – Rotunda, Pathways and Fountain Development project, as it fails to meet the Partnerships and Support *Regional Partnerships* program assessment criterion.

		Refer to Committee
WARREN TRUSS 21/ 6 /2006	JIM LLOYD 31/ 5 /2006	GARY NAIRN 29/ 5 /2006
[✓ APPROVE FUNDING] NOT APPROVE FUNDING RETURNED FROM COMMITTEE	[✓ APPROVE FUNDING] ~~NOT APPROVE FUNDING~~ ~~RETURNED FROM COMMITTEE~~	APPROVE FUNDING NOT APPROVE FUNDING RETURNED FROM COMMITTEE
RP02471 eWorks ID: 02716-2006	While concerned about the poor partnership contributions I note the considerable in kind and related support!	

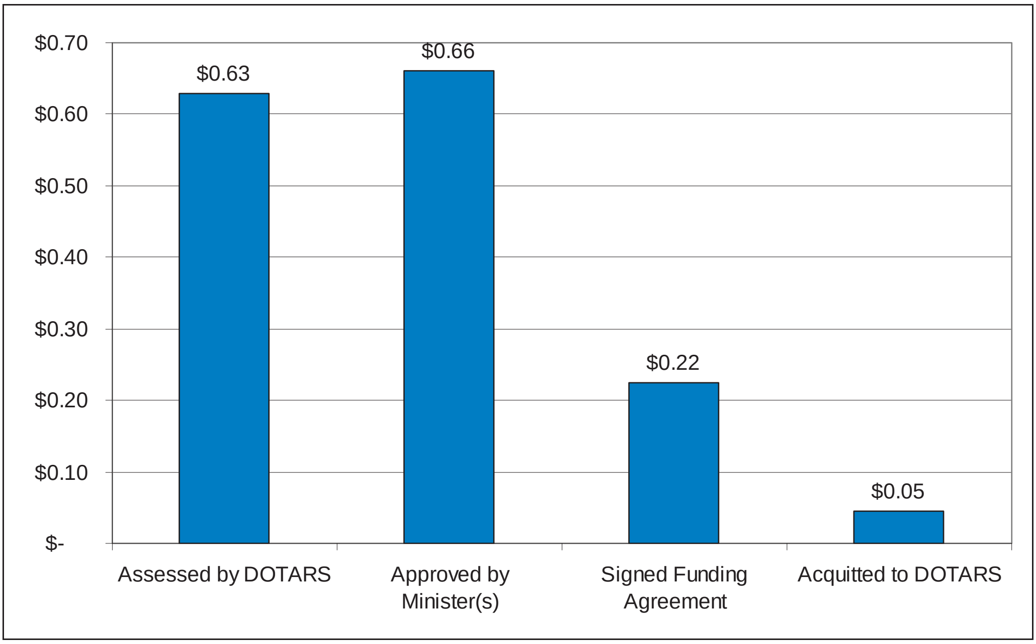
Source: DOTARS project assessment dated 19 May 2006.

3:5.76 The partner contribution acquittal requirements outlined in the Long Form Standardised Funding Agreement used for the first four years of the Programme made no distinction between cash and in-kind partner contributions. In this respect, Figure 3:5.7 illustrates, for projects in ANAO's sample, the aggregate differences between in-kind contributions assessed by DOTARS, approved by Ministerial decision-makers, quantified in the respective Funding Agreements and accounted for in the financial acquittals provided to DOTARS at the completion of the relevant projects. Figure 3:5.7 shows that, for the projects in the audit sample:

- it was common for in-kind contributions that were advised to the Ministerial decision-maker to not be specified and/or quantified in the Funding Agreement; and
- where in-kind contributions were included and quantified in the Funding Agreement, it was common for these to not be acquitted.

Figure 3:5.7

Ratio of in-kind partner contributions to each $1 of Regional Partnerships funding



Source: ANAO analysis of projects in the audit sample completed to DOTARS' satisfaction.

Revised reporting and acquittal requirements

3:5.77 The newly developed Regional Partnerships reporting pack provided by DOTARS to ANAO in June 2007 included templates to be provided to funding recipients for the purpose of meeting their progress and project completion requirements under their Regional Partnerships Funding Agreement. In terms of in-kind contributions, the reporting pack requires that funding recipients include advice on how successful they have been in obtaining the in-kind contribution specified in the Funding Agreement, and:

- where they have been successful, details are to be provided; and
- where they have been unsuccessful, advice of the reasons for this is to be provided.

3:5.78 In this respect, in June 2007, DOTARS provided ANAO with a draft of a revised Long Form Standardised Funding Agreement which it expected to be used in the administration of the Regional Partnerships Programme from 1 July 2007. The revised Long Form Standardised Funding Agreement continued to define ‘Other Contributions’ as comprising both financial and in-kind resources. It also continued to:

- make provision for inclusion in the annexure to the Funding Agreement Schedule of a description of all in-kind contributions and the name of the contributor; and
- require that funding recipients confirm both financial and in-kind contributions in writing within a specified period of time after the Funding Agreement has been signed.

3:5.79 However, whilst in-kind contributions continued to be required to be identified in the Long Form Standardised Funding Agreement and confirmed in writing, there was no longer any requirement for the funding recipient to provide an audited acquittal as to whether, and to what extent, these in-kind contributions are actually obtained. Specifically, changes had been made to Clause 9.2 in the revised Long Form Standardised Funding Agreement relating to the financial acquittal of projects, including that:

- the audited statement of receipts and expenditure in respect of Regional Partnerships funds and other contributions is now explicitly required to exclude in-kind partner contributions;
- the audited statement that the Regional Partnerships funding and other contributions were expended for the purpose of the Activity and in accordance with the Agreement is also now explicitly required to exclude in-kind partner contributions; and
- the certificate from the funding recipient that all Regional Partnerships funding and other contributions received were expended for the purpose of the Activity and in accordance with the Funding Agreement is also now explicitly required to exclude in-kind partner contributions.

3:5.80 As noted, in a risk management context, where in-kind partner contributions represent a relatively minor contribution to the overall project costs, or were not a significant factor in the Ministerial decision to approve funding, the absence of any acquittal of in-kind contributions does not represent a significant diminution in the accountability arrangements. However, as also noted, there are some projects for which the in-kind contributions proposed by the applicant and taken into account in DOTARS’ assessment, are an important consideration in the approval of Regional Partnerships funding. In those circumstances, the absence of any acquittal of in-kind contributions that were assessed by the department as being a genuine and measurable contribution to the project costs, included in advice to the Ministerial decision-maker, and reflected in the Funding Agreement represents a significant shortcoming in project accountability requirements.[406] Accordingly, for such projects, it is important that project acquittals include information on the actual in-kind contributions that were realised.[407]

3:5.81 In this respect, DOTARS advised ANAO in July 2007 that:

> In-kind contributions can take a range of different forms. The department understands that there is an obligation to monitor the recipient's success in obtaining in-kind contributions. However, given the nature of these contributions and difficulties surrounding auditing this balance, we do not think it is reasonable to request that an auditor provides an opinion as to whether in-kind contributions have been obtained.
>
> The department believes that a more pragmatic form of compliance monitoring is to request that the recipient provides this information to us in their progress reports and project completion reports. The Regional Partnerships Reporting Pack version 2 has been further enhanced and now requests the recipient answers the following:
>
> > Have you obtained the in-kind contributions as outlined in Annexure B of the Agreement?
> >
> > If NO: why not?
> >
> > If YES: please provide details of the supplier and nature of the contribution and attach appropriate evidence (e.g. photos, employment records, etc).
>
> It should also be noted sub clause 9.1 of the revised Funding Agreement specifies that 'the recipient must provide to Us as requested by Us at any time financial information (including bank statements, receipts and invoices) and audited financial reports of receipt and expenditure of the Funding and Other Contributions'. This sub clause specifically does not exclude in-kind contributions and, as such, it allows the department to request an audit over the receipt of in-kind contributions <u>at any time</u>. The department would, therefore, have scope to request an audit of the in-kind contributions if the

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[406] In addition, as outlined further below, in its Programme evaluations, DOTARS includes in-kind contributions when assessing the achieved overall level of partner funding for Regional Partnerships projects.

[407] In this respect, ANAO notes that the revised Internal Procedures Manual proposes a risk-based approach to confirming in-kind contributions. Specifically, Section 6.1.10 states that: 'where an in-kind contribution is a significant proportion of the project cost, it is also appropriate to seek some independent evidence of this contribution in the form of a letter of intent.'

> circumstances relating to an individual project warranted it (and the in-kind contribution was of an auditable nature).

3:5.82 Following consideration by DOTARS of ANAO's reporting of this issue, the revised Long Form Standardised Funding Agreement released for use from 27 August 2007 was further revised to include a requirement that progress reports include evidence of the funding recipient obtaining in-kind contributions.

Performance reporting

3:5.83 In its 2003–04, 2004–05 and 2005–06 Annual Reports[408], DOTARS stated that the Regional Partnerships projects selected for funding had attracted strong community support, with private sector and other parties contributing an average of $3 for every $1 spent by the Australian Government.

3:5.84 The partnership outcome reported by DOTARS of $3 being contributed by partners for every $1 spent by the Australian Government was based on the findings of the first phase of the Regional Partnerships evaluation framework. Specifically, an internal review of a selection of projects funded under Regional Partnerships that was completed in October 2004 found that:

> In total DOTARS contributed $34.6m toward partnerships in 271 projects between 1 July 2003 and 30 June 2004 under the Regional Partnerships programme. Other Partners (non-DOTARS) contributed an additional $110.5m in cash and/or in-kind toward RP projects. On average non-DOTARS Partners contributed just over $3 ($3.19) for every DOTARS $1.[409]

3:5.85 In terms of the findings of this evaluation, DOTARS advised the Senate Committee that:

> The success Regional Partnerships funding has had in attracting other partnership funding is demonstrated with at least $3 being contributed by State, local government and the private sector for every $1 of programme funding delivered.[410]

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[408] Department of Transport and Regional Services, *Annual Report 2003–04*, p. 112, *Annual Report 2004–05*, p. 119 and *Annual Report 2005–06*, p. 134.

[409] Department of Transport and Regional Services, *Inquiry into the Regional Partnerships Programme and Sustainable Regions Programme—Submission by the Department of Transport and Regional Services,* 28 January 2005, Attachment K, p. 4.

[410] ibid., p. 22.

3:5.86 DOTARS further advised the Senate Committee that the Stage Two evaluation of the Regional Partnerships Programme was scheduled to commence in the second half of 2005, and report early in 2006.[411] The mid-term (Stage Two) evaluation was actually completed in November 2006. In terms of partnerships, it stated that:

> Through *RP* the Government invested $117 million in 752 projects to 31 December 2005. Project partners made cash and in-kind contributions to the total value of $299 million ($2.56 in partner contributions for every $1 Regional Partnerships).[412]

3:5.87 More recently, the 2007–08 Budget Papers stated that:

> On average, the Regional Partnerships programme attracts a further three dollars from other sources for every dollar invested by the Australian Government.[413]

3:5.88 Most recently, the quarterly magazine of the Transport and Regional Services portfolio stated that:

> Since its inception in 2003, the Regional Partnerships Programme has provided more than $268 million to support 1,240 local projects. Regional Partnerships spending has generated $956 million in cash and in–kind contributions from project partners and returns more than four dollars[414] on the ground for every dollar invested by the Government.[415]

Use of Regional Partnerships funding to leverage other partner contributions

3:5.89 Genuine leveraging or attraction of funds from other sources occurs where Regional Partnerships funding is approved prior to other partner funding being secured, with the applicant then able to use its success in obtaining funds from the Programme to support its fundraising efforts.

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[411] ibid., p. 21.

[412] Department of Transport and Regional Services, *Stage Two Mid-Term Evaluation of the Regional Partnerships Programme*, November 2006, p. i.

[413] *Building a Strong Future for Regional Australia 2007–08*, Statement by The Honourable Mark Vaile MP Deputy Prime Minister and Minister For Transport and Regional Services and Leader of The Nationals, the Honourable Jim Lloyd MP, Minister for Local Government, Territories and Roads and the Honourable De-Anne Kelly MP, Parliamentary Secretary to the Deputy Prime Minister and Minister for Transport and Regional Services, Canberra, 8 May 2007, p. 80.

[414] See paragraph 3:5.103 for the result of the most recent analysis by DOTARS of partner co-funding.

[415] DOTARS, *Momentum—The Quarterly Magazine of the Transport and Regional Services Portfolio*, Winter 2007, p. i.

Leveraging does not occur where most or all partner funding has been secured prior to Regional Partnerships funding being approved.

3:5.90 A number of ANAO case studies demonstrated that DOTARS has not adopted a consistent approach to the use of Regional Partnerships funding to leverage other partner funding. For example, in respect to RP01452 Baralaba Swimming Pool Complex, the application sought Regional Partnerships funding of $137 779 (plus GST). The project budget indicated that there would be additional partnership funding of $235 631. The project budget was later revised by the applicant, the Baralaba P&C, increasing the amount of cash partner funding to $239 960, giving a new total expected project cost of $376 297.

3:5.91 As part of its assessment of the application, on 7 February 2005, DOTARS sought advice from the applicant as to the status of the funding applications it had submitted to the Queensland Department of Sport and Recreation and Banana Shire Council. The funding sought from the Department of Sport and Recreation ($104 875) represented more than 40 per cent of the proposed cash partner contributions to the project. On this date, the applicant advised DOTARS that:

> Our funding from the Department of Public Works and Banana Shire Council have been confirmed. We are still negotiating with the Sport and Rec funding however I think we will be pursuing other alternatives as we do not meet some of their criteria. I am working with Jim Pearce our Local State Member regarding other means of State Government funding.
>
> We have been waiting to hear about the Regional Partnerships funding before we pursue the State Government too much as a lot depends on this Federal Funding.

3:5.92 The advice from the applicant indicated that it envisaged that a successful application for Regional Partnerships funding could be used to leverage other partner funding to enable the project to proceed. This was confirmed by the applicant on 11 February 2005 when it advised DOTARS that:

> We are unable to continue with the Sport and Rec Major Works application as we cannot meet a number of their criteria. I have been waiting until I heard about Regional Partnerships funding before I went on with my next plan as I was hoping it would give me leverage.

3:5.93 This advice was in response to DOTARS advising the applicant on 11 February 2005 that:

> The fact that you have not secured, and plan not to pursue, the Sport and Rec funding is a serious issue for us. It means that you currently do not have funds necessary to complete the project. It also weakens the partnerships aspect of the project. Regional Partnerships funding is highly unlikely to be approved in this situation.

3:5.94 The then Parliamentary Secretary agreed with the department's recommendation that funding not be approved. One of the reasons given by the department for its recommendation was that the necessary co-funding had not been secured. In such circumstances, the Regional Partnerships funding is unable to be used to attract other project partners.

3:5.95 However, as outlined in Chapter 4 in this part of the audit report, Regional Partnerships funding has been approved for a number of projects without the status of partner contributions being assessed and/or subject to partnership funding for the project being subsequently confirmed. In some instances, confirmation has been required to occur before the Funding Agreement was to be signed, whereas in other cases the Funding Agreement was drafted such that confirmation of partnership contributions was to occur before the first instalment of Regional Partnerships funds would be paid.

Identifying contributions 'made'

3:5.96 In its evaluations[416], DOTARS relied upon data from Funding Agreements to identify the contributions 'made' by partners. In this respect, project partners and their financial contributions are required to be specified in an annexure to the Funding Agreement Schedule to the relevant Funding Agreement. The Funding Agreement requires that the funding recipient:

> must use all reasonable endeavours to provide or obtain Other Contributions sufficient to enable the completion of the Activity, including but not limited to the Other Contributions specified in the Schedule.

3:5.97 However, it is common for the final cost of the project, and therefore the amount of funds contributed by the funding recipient and/or project partners, to differ from the budget included in the annexure to the Funding Agreement Schedule.[417] This is often due to the need to find additional partner

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[416] See, for example, Department of Transport and Regional Services, *Stage Two Mid-Term Evaluation of the Regional Partnerships Programme*, November 2006, p. 2.

[417] This was recognised in DOTARS' most recent evaluation, which stated that: '37.1 per cent of respondents claimed that partner contributions exceeded their original commitment by between 10-20 per cent.' Source: Department of Transport and Regional Services, *Stage Two Mid-Term Evaluation of the Regional Partnerships Programme*, November 2006, p. iii.

funding to meet increased project costs. When project costs increase, the ratio of partner funding to Regional Partnerships funding will also increase.

3:5.98 However, notwithstanding that a large number of its survey respondents claimed that partner contributions to their project had increased significantly, DOTARS' evaluation relied upon Funding Agreement data as the basis for quantifying partnership outcomes. In addition, the DOTARS' evaluation provided no data on the extent of any reduction in partnership contributions reported by survey respondents.

3:5.99 The Long Form Standardised Funding Agreement used for most Regional Partnerships projects includes an effective framework for DOTARS to identify the final cost of each project, and the source and quantum of all actual partnership contributions.[418] Specifically, at the conclusion of the project, funding recipients are required to provide an audited detailed statement of receipts and expenditure in respect of both the Regional Partnerships funding and all partner contributions.[419]

3:5.100 In aggregate, for the 86 projects in the audit sample that had been completed to DOTARS' satisfaction, funding recipients reported $1.76 in partner cash contributions for each $1 in Regional Partnerships funding.

3:5.101 As noted at paragraph 3:5.46, DOTARS did not obtain from the funding recipient an acquittal that included details of partner cash contributions for 19 projects. The Funding Agreements for these 19 projects had specified total partner cash contributions of $3 387 820. Excluding these 19 projects from analysis, the reported ratio of partner cash contributions to each $1 of Regional Partnerships funding was $2.43.

3:5.102 Of the remaining 67 projects in ANAO's sample where DOTARS had obtained a financial acquittal that included information on contributions made by funding partners, only two reported an amount of partner contributions (and total project cost) that matched the quantum specified in the respective annexure to the Funding Agreement Schedules. In respect to the remaining 65 projects:

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[418] As noted at paragraph 3:5.79, the revised Long Form Standardised Funding Agreement which was expected to be used in the administration of the Regional Partnerships Programme from 1 July 2007 no longer required acquittal of in-kind partner contributions.

[419] Clause 9.2(c) of the Long Form Standardised Funding Agreement.

- 40 were acquitted such that the total of the reported partnership contributions was more than that specified in the Funding Agreement. The aggregate total extra funding was $5 624 460, representing an additional 67 per cent over the total specified in the respective Funding Agreements.[420] Such circumstances raise issues in relation to:
  - whether alternative funding sources had been exhausted before Regional Partnerships funding was sought, given the capacity of the funding recipients to fund substantial additional costs either from their own resources or through additional partner contributions. This issue was illustrated by the ANAO case study of RP01459 Sakai/CIC Business and Export Development project and in ANAO's examination of RP01216 Organic Chicken Processing[421] and is examined more fully in Part 4 of this audit report on Identifying, Assessing and Managing Viability Risks; and
  - the project costing more than the budget specified in the Regional Partnerships Funding Agreement with potential implications for applicant and project viability. This was illustrated by the ANAO case study of RP00769 Redevelopment of Geraldton Surf Life Saving Club and ANAO's examination of RP00963 Winton Aquatic Centre and is also examined more fully in Part 4 of this audit report on Identifying, Assessing and Managing Viability Risks.
- 25 were acquitted such that the total of the reported partnership contributions was less than that specified in the Funding Agreement.

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[420] In aggregate, the Funding Agreements for these projects specified partner cash contributions at a ratio of $1.74 for each $1 of Regional Partnerships funding. The financial acquittals provided to DOTARS reported an aggregate ratio of $2.90.

[421] Both of those projects involved for-profit funding applicants. In this respect, in May 2007, the Minister for Transport and Regional Services advised the 2007 ACC Conference that he would like to see more commercially oriented proposals brought forward, but that, to be approved for funding, a commercial project would need to demonstrate, amount other things: 'That it couldn't be fully funded from some other source—either a bank loan, or through other more appropriate grant programmes.' (Source: The Hon Mark Vaile MP, Minister for Transport and Regional Services, *2007 Area Consultative Committees Conference*, op. cit.).

> The aggregate total shortfall was $2 558 043, representing 23 per cent of the total specified in the respective Funding Agreements.[422]

3:5.103 In July 2007, DOTARS advised ANAO that:

> The department notes that while ANAO questions the use of Funding Agreement data to establish the extent to which $1 of Regional Partnerships funding leverages corresponding partner contributions (calculated at 31 December 2005 to be $2.56 but as of 30 June 2007 standing at $3.47) we have now through the updated Procedures Manual:
>
> - put in place processes that will make it easier to record changes to partner funding arrangements through the life of the project. The Ministerial Committee has authorised departmental staff to approve contract variations relating to changes to partner contributions. This will enable better tracking of contribution ratios;
> - strengthened the requirement on funding recipients to report their partner contributions received and indicate what they have been spent on as a part of the periodic reporting requirements; and
> - required the final acquittal to include reporting on receipt and expenditure of partner contributions (both cash and in-kind).
>
> These changes will result in the capture of data that will support a more rigorous examination of partner contributions under the programme in future evaluations.

Differentiating between cash and in-kind contributions

3:5.104 Another feature of the methodology that has been used to evaluate partnership achievements has been that DOTARS has aggregated the cash and in-kind contributions included in Funding Agreements. In this respect, as outlined in Chapter 2 in this part of the audit report, ANAO's examination of

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[422] In aggregate, the Funding Agreements for these projects specified partner cash contributions at a ratio of $2.48 for each $1 of Regional Partnerships funding. The financial acquittals provided to DOTARS reported an aggregate ratio of $1.93.

applications has found the valuation and assessment of in-kind contributions to projects to be inadequate and inconsistent.[423]

3:5.105 Further, as noted at paragraph 3:5.37, there have been significant inconsistencies evident as to whether in-kind contributions proposed in an application and taken into account in the departmental assessment of a project are subsequently clearly identified and valued in the resulting Funding Agreement as a contractually required contribution.

3:5.106 In this respect, the first internal evaluation of the Regional Partnerships Programme completed in October 2004 stated that differentiating cash contributions from in-kind contributions would provide a better understanding of the nature of partnerships and that this analysis would be included in future evaluation reports.[424] However, such analysis was not included in the Stage Two evaluation report. In this respect, in July 2007, DOTARS advised ANAO that:

> There is still an intention to include some analysis of the relative proportions of cash and in-kind contributions to the Regional Partnerships programme. This will be undertaken when there is sufficient reliable date on this to make the analysis meaningful.

3:5.107 In this context, the department's proposals to address the deficiencies in its collection and analysis of data on partnerships funding outcomes for Regional Partnerships projects will be an important step towards more accurate reporting on the performance of the Regional Partnerships Programme in delivering projects in partnership with applicants and/or other partners.

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[423] On this issue, in July 2007, DOTARS advised ANAO that: 'The revised Funding Agreement and its associated Reporting Pack (version 2) ask the funding recipient to identify both their expenditure of Regional Partnerships funds against the identified budget items and the receipt and expenditure of partnership contributions (excluding in-kind contributions) also against the designated budget items. With respect to in-kind contributions, funding recipients are required to provide details of the supplier and nature of the contribution and to attach appropriate evidence. This enhanced reporting regime will support a more rigorous evaluation of the extent to which the support of the Australian Government is matched by partner contributions.'

[424] Department of Transport and Regional Services, *Six Month Internal Evaluation for Regional Partnerships*, October 2004, p. 15.

Recommendation No.12

3:5.108 ANAO *recommends* that the Department of Transport and Regional Services promote improved performance reporting in relation to partnership outcomes for the Regional Partnerships Programme by:

(a) using audited financial acquittals for completed projects as the basis for reporting the level of achieved partner co-funding, rather than the anticipated contributions identified in Funding Agreements; and

(b) differentiating between cash and in-kind contributions.

DOTARS response

3:5.109 Agree with part (a) and agree with qualification to part (b) as this is a policy matter and would therefore be subject to agreement by the Government and the Ministerial Committee.

Part 4: Identifying, Assessing and Managing Viability Risks

4:1 Introduction to Identifying, Assessing and Managing Viability Risks

This chapter provides an overview of the applicant and project viability assessment criteria for the Regional Partnerships Programme and outlines relevant findings and recommendations of the Senate Committee. It also provides an outline of the content of the chapters in this part of the report.

Introduction

4:1.1 Effectively assessing and managing viability risks related to both applicants and the projects for which funding is being sought is a critical factor affecting the success of a grant programme in producing sustainable, desirable outcomes. Consistent with this principle, applicant and project viability assessment criteria have been an integral part of the Regional Partnerships Programme Guidelines from the commencement of the Programme.

4:1.2 In this context, when making recommendations as to whether individual applications should be approved for funding, DOTARS provides an assessment of applicant and project viability risks to the Ministerial decision-maker(s). Of the 84 projects included in the sample of applications examined by ANAO that were not approved for funding, 72 (86 per cent) were not approved due in whole or in part to issues associated with the assessed viability of the applicant and/or project. However, there were also a number of projects within the sample:

- that were recommended and/or approved for funding, notwithstanding identified viability risks, or
- where DOTARS' project assessment did not identify and/or rigorously assess viability risks with the result that these risks were not appropriately managed.

Applicant viability

4:1.3 Applicant viability is defined in DOTARS' Regional Partnerships Programme Internal Procedures Manual as being evidence that an applicant has the capacity and ability to ensure the project and its outcome(s) are achieved within the period of funding, and sustained beyond the period of funding.[425] In terms of assessing applicant viability, the July 2006 Regional Partnerships Programme Guidelines stated that:

> Consideration will be given to the nature of the organisation and the sort of project that is proposed. Important considerations will be:
>
> - the type of organisation (for example, whether the organisation is local government, private enterprise, community group etc.);
> - evidence of expertise/skills to manage the project;
> - the credentials of the applicant;
> - the ability of an applicant to deliver the outcomes, and
> - the level and likelihood of the risks involved, including how identified risks will be managed.[426]

4:1.4 In relation to commercial companies, it is clear that applicant viability is threatened once an administrator, receiver or liquidator has been appointed. This has occurred in relation to at least two entities in the sample of projects examined by the ANAO.

4:1.5 At the other end of the spectrum are entities that are viable to the extent that they do not need Regional Partnerships funding in order to proceed with a relevant project. In this respect, the Minister for Transport and Regional Services has recently reiterated that commercial projects need to demonstrate a balance between being viable but that the project couldn't be fully funded from some other sources.[427] This recognises that value for money for the Australian Government is not obtained where public money is provided to applicants that are proceeding with the project irrespective of whether Regional Partnerships funding is provided.[428] In this context, in the report of its inquiry into an application made under the Dairy Regional Assistance Programme, the Senate Finance and Public Administration References Committee commented that:

> If, on the other hand, the program guidelines allow for a grant to be made even though a project is fully financed and is in fact already well underway, this raises questions about the guidelines themselves. It touches on the broader question of what public policy objective Dairy RAP will achieve if it has the

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[425] DOTARS, *Regional Partnerships Internal Procedures Manual*, September 2005, p. 86.

[426] DOTARS, Regional Partnerships Guidelines, July 2006, p. 13.

[427] The Hon Mark Vaile MP, Minister for Transport and Regional Services, *2007 Area Consultative Committees Conference*, op. cit.

[428] ANAO Better Practice Guide-Administration of Grants, op. cit., p. 44.

> potential to be used simply to substitute public funding for private investment. This is a question which warrants further consideration by the department in the future administration of funding programs.[429]

4:1.6 The Senate Committee's report reflects the fact that Government grants are a valuable source of funding to for-profit organisations. This is because obtaining grant funding increases after tax cash flows to the funding recipient, but without the recipient being required to pay a return on those funds. In this context, the July 2006 Regional Partnerships Programme Guidelines stated that whether alternative funding sources have been sought will be a factor in assessing applications against the partnerships and support criterion, although this issue has also been addressed from a viability perspective in relation to some projects.[430] In this respect, the ANAO Administration of Grants Better Practice Guide states that:

> If the ratio of funding from other sources to Commonwealth funding is high, this is a strong indication that the project could well proceed without Commonwealth funding assistance. What constitutes a high ratio may vary from program to program; and an acceptable 'trigger' ratio should, where possible, be established at the outset as a basis for identifying applications requiring further investigation.[431]

4:1.7 It is more difficult to unambiguously identify when the viability of a non-profit entity or a Local Government Authority (LGA) is threatened. In relation to non-profit entities, the focus has usually been placed on the viability of the project rather than the financial position and performance of the entity that has sought funding. This has also been the case for projects submitted by LGAs in accordance with DOTARS' perspective that detailed viability assessments of an LGA is generally not warranted given:

- the lack of any known situation where the financial status of the LGA has impacted on the viability of the project; and
- the financial sustainability of LGAs is a State Government responsibility.

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[429] Senate Finance and Public Administration References Committee, *A funding matter under the Dairy Regional Assistance Program*, June 2003, p. 57.

[430] DOTARS, Regional Partnerships Guidelines, July 2006, p. 12.

[431] ANAO Better Practice Guide-Administration of Grants, op. cit., p. 44.

Project viability

4:1.8 In relation to project viability, the Programme Guidelines state that:

> Project viability is considered from two perspectives. Initial viability relates to whether the project can be completed, and ongoing project viability relates to how the project outputs will be maintained so that it results in sustainable community outcomes.[432]

4:1.9 The Programme Guidelines further state that applicants are required to address aspects of viability appropriate to their application, including:

- ownership of equipment or facilities or other assets that may be funded under the project
- the accuracy of the budget and costings, feasibility studies or project plans
- information on whether there is any need for planning approvals or licences and that these requirements have been met or fully considered
- the provision of business plans and cash flow projections
- ongoing maintenance and management
- funding that may be required for future stages of the project
- identification of key milestones and the proportion of project funding for each of the milestones
- if the project had previous stages, how it was funded in the past, and/or
- the results of any independent viability assessments if relevant.[433]

4:1.10 A key issue in project viability outcomes is whether the project is completed without requiring additional funding. This is recognised in the definition of project viability set out in the Programme Guidelines, as follows:

> **Project viability:** Evidence that the project outcomes are sustainable beyond the funding period, that the project has been appropriately costed and that there is sufficient funding to achieve the outcomes. The purpose of assessing project viability is to ensure that projects funded by the Australian

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[432] DOTARS, Regional Partnerships Guidelines, July 2006, p. 12.

[433] ibid., p. 13.

Government will not need further funding to enable the outcomes to be completed or sustained.[434]

4:1.11 In this respect, 86 projects (31 per cent) included in the sample of approved funding applications examined by ANAO had been completed and the financial acquittal accepted by DOTARS. Information on the final cost of the project had been provided by the funding recipient in respect to 68 of those projects (80 per cent of physically complete projects). Of these 68 projects:

- 27 (40 per cent) were reported to have been completed either at or below the project budget included in the Funding Agreement. In terms of the Programme Guidelines definition of project viability, this provides reasonable evidence that the project was viable; and
- 41 (60 per cent) were completed at a reported cost greater than the project budget. In many instances, the costs were significantly greater than the budget on which the department's assessment of project viability had been based. Accordingly, in terms of the Programme Guidelines, such projects realised heightened viability risks when considered against the project budget that was assessed by DOTARS and included in the Funding Agreement entered into with the funding recipient.

4:1.12 Further information and analysis with respect to these issues is included in Part 5 of this audit report on Managing for Outcomes.

Identifying, assessing and managing viability risks in the context of the design of the Regional Partnerships Programme

4:1.13 Features of the Programme design present challenges for DOTARS in its assessment and management of grants. In particular:

- there are few limits on the types of projects that can be funded[435];
- the availability of funding under other grants programmes does not preclude applications for funding being submitted under the Regional

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[434] ibid., p.20.

[435] One of the few limits is that commercial enterprises are not eligible to request funding for planning, studies or research. Another limit is that Regional Partnerships funding is not to be used as a funding source for completing unfinished projects that have been funded from other government programs and where other program funding has been exhausted without completing the contracted activity.

Partnerships Programme instead of, or as well as, under specific purpose funding programmes[436];

- most types of entities are eligible for funding. Similar to many Commonwealth grant programmes, eligible applicants include non-profit organisations and LGAs. In addition, for-profit organisations are also eligible for funding, adding additional complexity to Programme administration, as do provisions that:
  - prohibit Commonwealth or state government departments from receiving funding but permit applications from non-departmental government agencies including statutory authorities, land councils, government business enterprises or tertiary education institutions; and
  - permit the substantive applicant to be sponsored by another organisation, such that the sponsor is considered to be the applicant in assessing applicant viability risk; and
- whereas most discretionary grants programmes operate through structured funding rounds, applications for funding under the Regional Partnerships Programme may be submitted at any time. Accordingly, each project is considered in relative isolation, with the absence of funding rounds making it more difficult for consistent standards to be applied to risk assessments.

4:1.14 In terms of assessing and managing project and applicant viability risks, the design of the Programme means that a diverse range of skills and experience is needed in order to appropriately identify risks in relation to projects that range from large projects submitted by for-profit applicants (who may also be engaged in raising capital for the project through equity and/or debt) to small community projects submitted by non-profit organisations whose viability is heavily dependent on grants and fund raising activities. In addition, in those circumstances Programme administration is more demanding in terms of resources than is the case with grants programmes where criteria are clearly defined and adhered to, with funding distributed following application rounds.

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[436] In this respect, the July 2006 Programme Guidelines (p. 6) state that: ‘Regional Partnerships is not a substitute for specific purpose funding. Where [*an*] Australian state or local government program exists to meet a specific need, funding should be accessed through that program. However, this does not rule out Regional Partnerships funds where specific purpose funding has been accessed to the maximum funding level, and a genuine gap remains.’

Decision-making flexibility

4:1.15 The design of the Regional Partnerships Programme includes considerable decision-making flexibility for Ministers. This has been reflected in advice to applicants that applications that satisfy Programme criteria (including those relating to applicant and project viability) may still not be approved for funding. For example, the July 2006 version of the Programme Guidelines advised:

> All applications are assessed against assessment criteria relating to outcomes, partnerships, support, project viability, applicant viability, competitive advantage and cost shifting. However, meeting the assessment criteria does not guarantee funding. Applications are assessed individually on their merits on a case-by-case basis and a final funding decision is made by a committee of Ministers.[437]

4:1.16 Equally, in June 2007 DOTARS advised ANAO that:

> *Regional Partnerships* is a discretionary grants programme. It has broad policy objectives and as a result, the criteria for approval are subjective and a matter for judgement by Ministers.

4:1.17 The Ministerial discretion to approve funding for projects that the department has not recommended for funding has significant implications for DOTARS' assessment and management of Regional Partnerships projects. In particular, DOTARS officials have not been authorised by Ministers to reject applications for funding that demonstrably do not satisfy one or more of the Programme criteria. Other than those that are withdrawn by the applicant during the assessment process, all applications must be submitted for Ministerial consideration and decision.

4:1.18 Accordingly, regardless of whether or not DOTARS recommends an application be approved for funding, it is important that all key risks relating to that application are examined through the departmental assessment and, where necessary, identified to the Minister. This will appropriately inform the Minister's discretionary decision, including in regard to risk-mitigating conditions that should be attached to any funding approval.

4:1.19 In this context, Ministers have, on occasion, approved funding for projects that were assessed by the department as representing a high applicant

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[437] DOTARS Regional Partnerships Guidelines, July 2006, p.13. Earlier versions of the Guidelines had also advised potential applicants that 'meeting the assessment criteria does not guarantee funding'. However, this advice was omitted from the July 2007 version of the Guidelines.

and/or project viability risk. In a risk management context, effective management of these risks through the Regional Partnerships Funding Agreement poses significant challenges for DOTARS in terms of available resources, and experience and expertise to effectively manage such risks.

For-profit applicants

4:1.20 In the first three years of the Programme, applications from for-profit organisations were distinguished from those submitted by other types of applicants in respect to:

- the size of the overall project, with projects submitted by for-profit organisations typically being significantly larger than those proposed by other types of applicants[438];
- the amount of Regional Partnerships funding sought, with for profit organisations usually seeking significantly larger amounts of Regional Partnerships Programme funding than other types of applicants[439]; and
- the partnership arrangements, with projects submitted by for-profit organisations being mainly funded by the funding recipient and the Regional Partnerships Programme, with few other funding partners being involved. In addition, on average, the Regional Partnerships funding represented a smaller proportion of the overall project cash costs than was the case with other types of applicants in ANAO's sample.

4:1.21 In this respect, in a recent speech, the Minister for Transport and Regional Services stated that he would like to see commercial projects becoming an increasing focus of the Programme.[440] In addition, in September 2007, the Minister announced that all applications from private businesses will be channelled into their own funding stream and that applications for funding

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[438] The average total project cash cost of projects submitted for funding by for-profit organisations in ANAO's sample (as advised in project assessments provided to the Ministerial decision-maker by DOTARS) was $1 866 598, compared to an average total project cash cost of $712 730 across all projects in ANAO's sample. The category of applicants with the next highest average project cash cost was LGAs with $839 968 (more than one million dollars on average less than the value of projects submitted by for-profit organisations).

[439] While applications from for-profit organisations represented some 10 per cent of the applications in ANAO's sample, those organisations applied for more than 24 per cent of the total amount applied for by all entities in the sample.

[440] The Hon Mark Vaile MP, Minister for Transport and Regional Services, *2007 Area Consultative Committees Conference*, op cit.

under this stream will be considered through two funding rounds a year.[441] In announcing this change, the Minister said:

> We are restricting the timing of these applications so we can consider them more thoroughly and undertake stronger financial viability assessments.

4:1.22 The Regional Partnerships Programme Guidelines define a commercial project as one where the financial transactions result in profits to the applicant. In this context, greater funding of for-profit entities has important implications for DOTARS in its administration of the Regional Partnerships Programme given that the different nature of for-profit entities means that different skills are required to identify, assess and manage viability risks than for grants programmes that are restricted to community-based organisations and LGAs.

Senate Committee

4:1.23 In the report of its inquiry into the Regional Partnerships Programme, the Senate Committee made findings on the assessment and management of viability risks in relation to three of the projects it had examined in detail, as follows:

> The Committee considers that the Beaudesert Rail grant serves as a warning of the effects of expediting projects without undertaking adequate due diligence checks. Beaudesert Rail's financial viability was marginal at best (it was under administration at the time of the RP [*Regional Partnerships*] grant) and it ceased operation in August 2004. Creditors took possession of its assets in February 2005.[442]
>
> Two grants totalling $1.496 million to Wyong Shire Council for dredging work at the mouth of Tumbi Creek were approved by Parliamentary Secretary Kelly in mid 2004. The Committee was concerned about the allocation of such a large grant to a project with limited beneficiaries which provided a short-term rather than a long-term solution, particularly given that sustainability is an important feature of the RPP [*Regional Partnerships Programme*] project viability criteria.[443]
>
> The Committee is concerned that due to political pressures to process the application within a short timeframe, a proper due diligence process was not undertaken by the department. The 'due diligence' assessment carried out prior to the department making its recommendation to the minister appears to

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[441] The Hon Mark Vaile, Minister for Transport and Regional Services, *National Press Club Address Plan for Regional Australia*, op. cit.

[442] Senate Committee Report, op. cit., p. xiii.

[443] ibid.

> have only been a compliance check. The Committee found that DOTARS was unaware of information fundamental to the viability of the project, including A2DM's tenuous financial situation and the legal action pending against it by a Queensland government department.[444]

4:1.24 In terms of due diligence procedures, the Senate Committee concluded that:

> The Committee recognises that due diligence assessment processes need to be located within a robust risk assessment framework. It would be injudicious for DOTARS to undertake equivalent due diligence assessments for all applications without regard to project size, complexity and proponent. However, the Committee is disturbed by evidence which shows that in some instances basic checks have not been undertaken. That the Department was not aware of legal action by a state government department against the proponent of the A2 Dairy Marketers project, highlights existing shortcomings in the due diligence process.[445]

4:1.25 Two of the Senate Committee's 26 recommendations related to due diligence assessments. These two recommendations, and the November 2006 Government responses, are outlined in Table 4:1.1.

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[444] ibid., p. xiv.

[445] Senate Committee Report, op. cit., p. 207.

Table 4:1.1

Relevant Senate Committee Recommendations and Government Responses

Recommendation	Government Response
19: The Committee recommends that due diligence processes be strengthened including a routine inquiry relating to legal action against applicants.	Disagree. Due diligence is already assessed rigorously. The scope to continually improve processes will be reviewed. It is not considered appropriate to exclude consideration of an applicant due to pending legal action as such action may have no basis.
20: The Committee recommends that no program funding be approved for projects that do not meet Regional Partnerships and Sustainable Regions guidelines and fail other tests including proper due diligence.	Agree in part. The Government announced on 15 November 2005 that changes to the *Regional Partnerships* Programme will permit the Government to direct a pool of funds within the *Regional Partnerships* Programme for specific investment priorities which may not otherwise be brought forward by Area Consultative Committees (ACCs). The *Regional Partnerships* Programme has been used by the Government to deliver associated programmes. One such example is the Rural Medical Infrastructure Fund, which is based on *Regional Partnerships* Programme guidelines but is also subject to specific criteria. These criteria are published on the *Regional Partnerships* web site. When new Government priority areas are identified, additional or modified guidelines or criteria may be issued as required, and published on the *Regional Partnerships* web site. The SONA procedures have not been used since August 2004 and it is considered that special considerations such as those made under SONA procedures will no longer be required.

Source: ANAO analysis of Senate Committee Report and November 2006 Government Response.

Content of this part of the audit report

4:1.26 Each version of the Regional Partnerships Programme Internal Procedures Manual has required that DOTARS assess all applications against the applicant viability and project viability criteria. In this respect:

- Chapter 2 of this part of the audit report examines the quality and extent of DOTARS' identification and assessment of viability risks. It also includes an overview of the substantial improvements made during the course of the audit to Programme procedures for identifying, assessing and managing viability risks;
- Chapter 3 examines the department's processes for obtaining and acting upon external viability assessments to inform its assessment and

management of viability and other risks relating to projects that have sought, or been approved for, Regional Partnerships funding; and

- Chapter 4 is focused on the identification, assessment and management of viability risks in respect to applications for funding from for-profit organisations.

4:2 Due Diligence Inquiries

This chapter examines the quality and extent of DOTARS' identification and assessment of viability risks and outlines the substantial improvements made to Programme procedures to address the audit findings and conclusions.

Introduction

4:2.1 Due diligence is a process undertaken to obtain sufficient information for informed decision-making and to verify the accuracy and completeness of information that has been provided.[446] In relation to assessing project and applicant viability, both the February 2005 and September 2005 versions of the Regional Partnerships Programme Internal Procedures Manual stated:

> A due diligence check involves the review of organisation and project details, including financial records where necessary. These checks are carried out to minimise adverse impacts on the *Regional Partnerships* programme by identifying, analysing, and mitigating potential risks.[447]

4:2.2 Both in establishing the Programme and during its implementation, the responsible Ministers have explicitly declined to authorise DOTARS officials to approve or not approve any Regional Partnerships grant applications.[448] In this respect, the Ministerial approval of Regional Partnerships projects establishes the project recipient, the Regional Partnerships Programme funding amount, the total project amount, specific partners, individual and total partnership contributions and any conditions applied as part of the approval process.[449]

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[446] ANAO Audit Report No.38 1997-98, *Sale of Brisbane, Melbourne and Perth Airports*, Canberra, 24 March 1998, p. 10.

[447] DOTARS, *Regional Partnerships Internal Procedures Manual*, February 2005 (p. 69) and September 2005 (p. 62), Section 3.3.

[448] On 10 May 2007, to streamline the administration of Funding Agreements, the Ministerial Committee delegated to DOTARS the power to approve variations submitted after the Committee has approved Regional Partnerships funding for a project provided that the total funding does not exceed the amount approved, that all funding conditions imposed by Ministers are met, and that partnerships remain within limits of the Programme Guideline. Prior to this delegation, DOTARS officials had not been empowered to approve any variations to the specifics of the project approved by Ministers for Regional Partnerships funding. Further in this respect, when announcing the delegation, the Minister for Transport and Regional Services reiterated that ultimate responsibility for project approval decisions remains with the Ministerial Committee.

[449] DOTARS Ministerial Submission, *Proposals to Improve Regional Partnerships Programme Processes*, 18 April 2007, Attachment C, paragraph 1.

4:2.3 In this context, as discussed, in making the final decision as to what, if any, funding will be approved for individual Regional Partnerships applications, Ministers are undertaking the role of considering and approving proposals for the expenditure of public money for the purposes of the FMA Regulations.

4:2.4 All such inquiries, and resulting conclusions, should be conducted in the context of the assessment criteria approved for the Programme and advised to potential applicants. Accordingly, having regard to the published Regional Partnerships Programme Guidelines, an important issue to be addressed as part of the reasonable inquiries required by FMA Regulation 9 as to the efficient and effective use of public money is the viability of the applicant and the project for which Regional Partnerships funding has been sought and, consequently, the sustainability of the outcomes anticipated to result from the expenditure of the public money.

Assessment ratings

4:2.5 The Regional Partnerships Programme Guidelines advise applicants that projects will be assessed against a number of criteria including applicant viability and project viability. In this context, when assessing applicant and project viability risks, at the time of the audit, DOTARS had adopted a three-point ordinal scale of ‘high’, ‘medium’, and ‘low’.

Assessment of applicant viability

4:2.6 The purpose of applicant viability assessments is to obtain assurance that the project and its outcome(s):

- will be achieved;
- will be met according to expectations and plans; and
- are sustainable and ongoing beyond the funding period.[450]

4:2.7 The versions of the Internal Procedures Manual in place during the period examined by ANAO advised departmental assessors that assessing applications against the applicant viability criterion involved obtaining and assessing evidence that the applicant had the capacity and ability to ensure the

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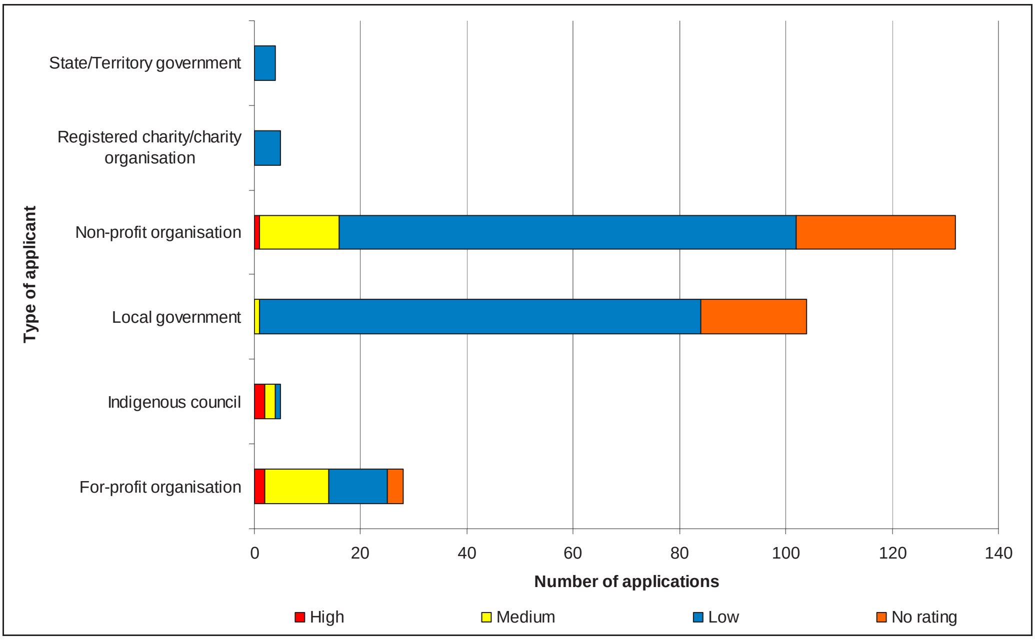
[450] See, for example, DOTARS, Regional Partnerships, *Regional Office and National Office Internal Procedures Manual*, July 2003, p. 69. Similar advice had been included in all subsequent versions of the Manual that applied to June 2007.

project and its outcome(s) would be achieved within the period of funding, and sustained beyond the period of funding.

4:2.8 ANAO examined a sample of 278 applications in respect of which DOTARS had completed an assessment (including both approved and not approved projects) and compared the type of applicant with the level of viability risk assigned to the applicant by DOTARS. The results of this analysis are illustrated in Figure 4:2.1.

Figure 4:2.1

Applicant type and associated applicant viability risk assessment in audit sample



Source: ANAO analysis of DOTARS' records.

4:2.9 As Figure 4:2.1 shows, there were relatively few applicants in the ANAO sample that were assigned a high applicant viability risk by DOTARS. The five that were assigned high risk ratings were spread between the for-profit organisation applicants, Indigenous council applicants and non-profit organisation applicants. Around 10 per cent of all applicants in the ANAO sample were assigned a medium applicant viability risk, mainly across the same three applicant groups. Where a rating was allocated, the significant majority of applicants (84 per cent) were assessed as being low risk. The remaining applicants were assessed only as satisfying or not satisfying this criterion, with no rating being identified.

4:2.10 In terms of the validity of the risk ratings, the following projects case studied by the ANAO were assessed by DOTARS as involving a low applicant viability risk:

- RP00769 Redevelopment of Geraldton Surf Life Saving Club, where the applicant was a small non-profit organisation of limited financial means seeking to obtain significant funds from a range of different sources in order to undertake a major building redevelopment. A 20 per cent increase to the Regional Partnerships grant was recently approved by the Ministerial Committee on the basis of advice from the applicant that it was totally reliant on increased Regional Partnerships Programme funding to assist meet increased construction costs;
- RP01016 Design and Construction of an Interpretive Centre for the Carnarvon One Mile Jetty, although the assessment was not supported by rigorous and comprehensive analysis of the applicant and its financial position and performance. In comparison, another party that had also been asked to provide funding to the applicant undertook a more rigorous assessment and concluded that the applicant was not in a financially sustainable position[451]; and
- RP01365 Undercarriage Remanufacture Facility, notwithstanding the absence of scrutiny of key underpinnings of financial risks, and their effect on the applicant. In this respect, in August 2007 an administrator was appointed to the company that received the Regional Partnerships grant and the majority of the specialised undercarriage remanufacture equipment purchased in whole or part with Regional Partnerships funding has been advertised for sale.

Project viability

4:2.11 Project viability has been defined in the Internal Procedures Manual as evidence that the project outcomes are sustainable beyond the funding period, and that the project has been appropriately costed.[452] The July 2006 version of the Regional Partnerships Programme Guidelines stated that:

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[451] The case study of this project has not been published.

[452] See, for example, DOTARS, Regional Partnerships, *Regional Office and National Office Internal Procedures Manual*, July 2003, p. 66. The same definition had been included in all subsequent versions of the Manual in place during the period examined by ANAO.

> Project viability is considered from two perspectives. Initial viability relates to whether the project can be completed, and ongoing project viability relates to how the project outputs will be maintained so that it results in sustainable community outcomes.[453]

4:2.12 Similar to DOTARS' assessment of applicant viability risks, there were relatively few projects in the ANAO sample that were assigned a high project viability risk by DOTARS (see Figure 4:2.2). The significant majority (69 per cent) of projects that were assigned a project viability risk rating were assessed as being a low risk. Despite the current environment relating to heightened construction project risks, including cost increases and labour shortages, this included 114 (78 per cent) of the 147 projects involving construction that were assigned a risk rating. For example, the following projects examined by ANAO were assessed by DOTARS as representing a low project viability risk:

- RP00622 Jarrahdale Heritage Park, notwithstanding that:
  - there was insufficient evidence available to DOTARS at the time of its assessment to be satisfied that the revenue projections for the project were robust and reliable in order to support its conclusion that the project represented a low viability risk; and
  - DOTARS had not obtained the necessary information from the applicant in order to be in a position to appropriately assess the robustness of the cost estimates on which the application was based. In this respect, in May 2007 the Shire of Serpentine-Jarrahdale advised DOTARS that one reason for the extensive delays in the project was the inadequate planning and design (including of costs) undertaken at the time the application was submitted[454];

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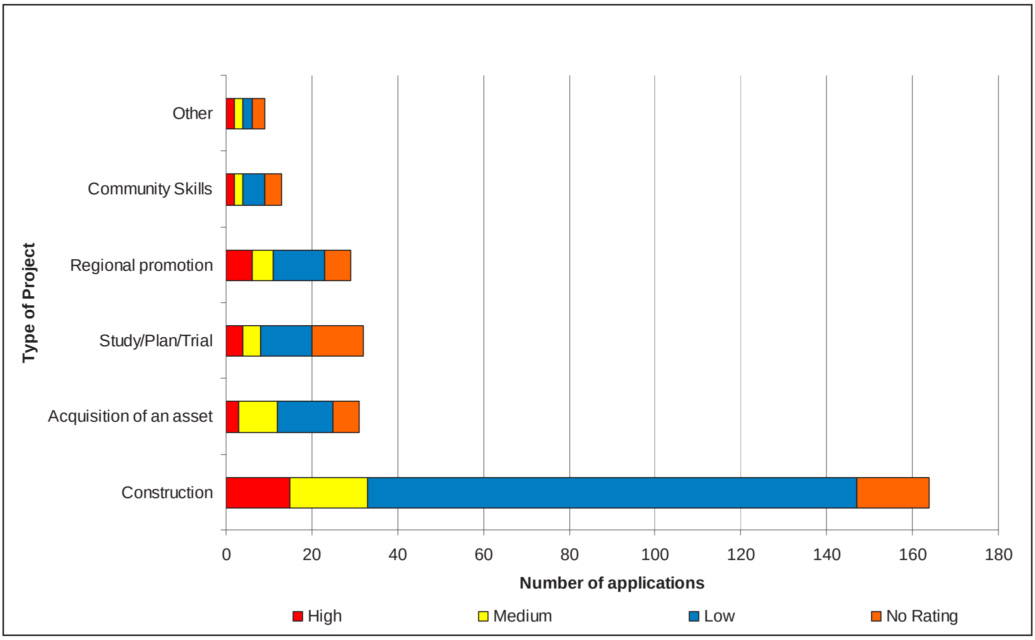
[453] DOTARS Regional Partnerships Guidelines, July 2006, p. 12.

[454] On 28 August 2007, DOTARS advised the Ministerial Committee that: 'A Funding Agreement was executed on 1 October 2004 and payments totalling $340 450 (GST inclusive) have been made. Work on the project has been slow and has now stalled, and following a round of consultation with parties involved in the project, the Department has concluded that the original project scope is no longer achievable, without further funding…To date *Regional Partnerships* has contributed to one pedestrian bridge, extensive walking trails and one section of road…' On 19 September 2007, the Ministerial Committee agreed to a departmental recommendation that it agree to reducing the scope of the project to the work already completed, obtaining a full acquittal of Regional Partnerships funds for the components completed to date and terminating the Funding Agreement. The Shire funding recipient was to be advised of the decision by DOTARS and invited to submit an application for the remaining activities.

- RP00963 Winton Aquatic Centre, notwithstanding that the budget identified in the application for Regional Partnerships funding was based on an outdated quantity surveyor's estimate (that was itself qualified) and there had been no assessment of the risk of the project costing more than the amount budgeted for; and
- RP02237 Tambo Multipurpose Centre project, wherein DOTARS' March 2006 assessment that the project represented a low viability risk relied on a June 2005 cost estimate from the applicant that was based on concept designs only.

Figure 4:2.2

Project type and associated project viability risk assessment in audit sample



Source: ANAO analysis of DOTARS' records.

4:2.13 The results outlined in Figure 4:2.2, and similar findings in relation to the assessment of applicant viability risk, indicate that DOTARS' method of rating viability has been insufficiently informative regarding the risk-profile attached to different applications. In this respect, the ANAO Administration of Grants Better Practice Guide suggests that:

> The process should be able to effectively discriminate between projects of varying merit in terms of the selection criteria and the objectives of the program. Numerical rating scales have the advantage of being able to

> discriminate quite effectively between individual projects and classes of project. Scoring criterion using ordinal scales (i.e. High/Medium/Low) makes it inherently more difficult to arrive at an overall rating for each application. Furthermore, the use of ordinal scales usually results in fewer rating points with a greater number of projects in each rating point than with numerical scales. This can make it more difficult for decision-makers to differentiate the relative merits of projects within the same rating point.[455]

4:2.14 In April 2007, ANAO raised with DOTARS the merits of adopting a numerical rather than ordinal rating scale for assessments against the applicant and project viability criteria to allow assessors to better discriminate between applicants and projects in terms of viability risks. In this respect, in June 2007 DOTARS advised ANAO that:

> The Regional Partnerships Programme has developed a five scale rating system (Very low/Low/Moderate/High/Severe) to bring the risk assessment scale in line with the Department's risk framework.

4:2.15 This is an improved approach compared with the approach that was in place during the first four years of the Programme, allowing assessors' greater capacity to discriminate among applicant and project viability risks.

Obtaining sufficient information for analysis

4:2.16 A fundamental underpinning for the effective identification and assessment of viability risks so as to inform funding decisions and enable risk to be managed prudently is for sufficient and appropriate information to be obtained for analysis. In this context, in the report of its inquiry into the funding of a Dairy Regional Assistance Programme application, the Senate Committee commented that:

> In a government grants program such as Dairy RAP, the administering department has a responsibility to conduct thorough checks on applicants to ensure that any funding decision takes account of all relevant information.[456]

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[455] ANAO Better Practice Guide-Administration of Grants, op. cit., p. 42.

[456] Senate Finance and Public Administration References Committee, *A Funding Matter Under the Dairy Regional Assistance Program*, June 2003, p. 47.

Information required to be submitted with applications

4:2.17 To assist DOTARS in assessing project and applicant viability, the Regional Partnerships application form requires applicants to include details of:

- what experience and resources the applicant has, or has access to, that will help the applicant manage the project; and
- how the project and its outcomes will be self-sustaining at the end of Regional Partnerships funding.

4:2.18 In addition, applications submitted from the private sector and/or a for-profit organisation; applications seeking more than $250 000 in Regional Partnerships funding; and/or applications seeking funding for a project that will operate in a commercial environment are required to also include:

- an outline of the organisation's/sponsor's ownership and management structure including details of partners and/or directors;
- the business plan for the project, including (where applicable):
  - any feasibility study;
  - industry data/research;
  - cash flow projections for the project period and the following three years including the assumptions used and key/sensitive factors in the projections (which could include investment analysis details such as rates of return, liquidity and debt analysis assumptions);
  - marketing strategy and assumptions;
  - analysis of strengths, weaknesses, opportunities and threats; and
- a list of pecuniary interests relevant to the project.

4:2.19 The application form also notes that further information may be sought during the assessment phase including audited profit and loss statements and balance sheets, an authorised statement of financial position and tax returns for the previous three years.

Information requested, but not obtained

4:2.20 Notwithstanding the information that is expected to be provided by applicants, there were a number of instances in ANAO's sample where required information was not provided for analysis at the time of the original application, and/or in response to later requests from DOTARS. However, this was not appropriately reflected in DOTARS' assessment of applicant and/or project viability risks, as advised to the Minister.

4:2.21 For example, ANAO's case study of RP01364 Country Homes and Cabins showed that, although unaudited financial statements for some prior years were obtained by DOTARS in relation to two related entities, the department did not obtain any such information in relation to the applicant company. Such information was not provided with the original application and was explicitly requested at a later stage to inform an external viability assessment commissioned after DOTARS had finalised its assessment and submitted its funding recommendation to the then Parliamentary Secretary. However, the external assessor found it necessary to qualify its report due to the absence of this information.

4:2.22 For various reasons, including project outcomes, competitive neutrality concerns and sustainability, DOTARS recommended that funding not be approved for that project. However, notwithstanding that no information had been obtained to enable an assessment of the applicant company's financial position and performance, DOTARS advised the then Parliamentary Secretary in its project assessment that the applicant represented a low viability risk. By way of comparison, the later external viability assessment, which was qualified on a number of grounds including the absence of financial reports for the applicant company, concluded that the applicant company represented a high viability risk. DOTARS did not update its advice to the then Parliamentary Secretary. Funding was subsequently approved.[457]

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[457] The effect of the assessment deficiencies, and the risks associated with funding this project, were increased by DOTARS paying $250 000 (plus GST) in Regional Partnerships funds in November 2005, despite the funding recipient having already reported non-achievement of the first milestone. As at May 2007, 18 months after this payment was made, DOTARS had yet to obtain any financial acquittal in relation to the funds, notwithstanding that the Funding Agreement had required that construction of the facility be completed within eight months. The project was then not expected to be completed until at least the end of 2007.

Insufficient information obtained for analysis

4:2.23 As noted, currently cash flow projections are requested for the project period and the following three years. However, the consultants that undertook a number of the external viability assessments commissioned by DOTARS in respect to projects in ANAO's sample reported that 10 years of projected cash flows would have been more appropriate to underpin their analysis.

4:2.24 This issue is discussed, for example, in the case study of RP01365 Undercarriage Remanufacture Facility; a project approved for $500 000 (plus GST). In that case, the report of the external viability assessment assessed the reasonableness of the financial results projected by the applicant as being of high risk, advising:

> Future cash flow projections have only been provided for 2½ years. It is preferable that at least ten years of projections be required. A ten year projection will provide a more robust platform for calculating the Net Present Value and Internal Rate of Return for the project. It is considered optimistic that a surplus has been projected in the first year of operations.

4:2.25 To address this risk, the external viability assessment recommended that DOTARS request projected results for a 10 year period and require the applicant to revisit the projected results. DOTARS did not act on that recommendation, or any of the other 10 recommendations made in the external viability assessment, prior to assessing the application as being of low project risk and recommending funding approval.[458]

4:2.26 DOTARS also did not obtain additional cash flow projections in respect to other projects where the external viability assessment had concluded that the data that had been provided was insufficient to inform a rigorous assessment of viability risks.

4:2.27 In addition, DOTARS did not obtain sufficient information in relation to viability risks for RP01016 involving $300 000 (plus GST) for Design and Construction of an Interpretive Centre for the Carnarvon One Mile Jetty. DOTARS assigned a low risk rating to the applicant, a non-profit entity. However, this assessment was not well informed as it was not supported by a sound analysis of the applicant, and its financial position and performance. In comparison, in evaluating whether to provide financial support to the ongoing

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[458] In August 2007, an administrator was appointed to the company that received the Regional Partnerships grant and the majority of the specialised undercarriage remanufacture equipment purchased in whole or part with Regional Partnerships funding has been advertised for sale.

operations of the applicant, the local Council obtained financial and other information not sought by DOTARS. Table 4:2.1 outlines the steps taken by Council in evaluating whether it should provide short-term liquidity support to the applicant, and compares the analysis undertaken by Council to DOTARS' assessment of applicant viability for the same entity.

Table 4:2.1

RP01016 Design and Construction of an Interpretive Centre for the Carnarvon One Mile Jetty: Assessment of applicant and project viability

Assessment procedure	Undertaken by DOTARS October 2004?	Undertaken by Shire of Carnarvon March 2005?
Analysis of balance sheet, operating statement and cash flows	No – this information was not obtained	Yes
Analysis of annual operating budget	No – this information was not obtained	Yes
Information validation with auditors and bankers	No – no contact was made	Yes
Viewing of constitution documents, and meeting minutes	No – this information was not obtained	Yes
Viewing of master plan for development	Yes	Yes
Meeting with CHG Chair and Executive	No	Yes
Analysis of current external funding and alternatives	No – this information was not obtained	Yes
Asset evaluation	No – this information was not obtained	Yes

Source: ANAO analysis of DOTARS' records and minutes of meetings of the Shire of Carnarvon.

4:2.28 As a result of its analysis, Council concluded that the applicant was not in a financially sustainable position but agreed to contribute $60 000 towards ongoing operating costs. It is relevant to note that Council undertook substantially more rigorous due diligence in deciding whether to provide significantly less funds to the applicant than was undertaken by DOTARS in assessing the application for Regional Partnerships funding.

Assessments completed prior to relevant information being obtained

4:2.29 In a number of instances, relevant information was provided to DOTARS after the department had finalised its assessment. However, even where this information raised significant viability issues, it did not cause the department to provide further advice to the Ministerial decision-maker.

4:2.30 For example, RP00622 Jarrahdale Heritage Park involved an LGA developing a tourism park. The Park itself is not expected to be sustainable on a stand-alone basis. Other key viability risks involve the majority of the Park land not being owned by the funding recipient, and untested and unsubstantiated revenue and cost assumptions underpinning the funding application.[459]

4:2.31 In its project assessment, DOTARS advised the then Parliamentary Secretary that the National Trust of Australia (WA) was contributing the 32 hectares of land that would largely comprise the Park, and that all partnership funding had been confirmed.

4:2.32 However, despite the land valuation representing 46 per cent of total project costs, DOTARS had not actually undertaken any due diligence to establish and confirm the land tenure arrangements. As a result, DOTARS' assessment of the Jarrahdale Heritage Park application did not address the fact that the land was not being donated to the Shire, but that the National Trust of Australia (WA) had only consented to the construction of the Park on its land. Consequently, the Shire has insecure tenure over the land where Regional Partnerships funds are being used to construct key elements of the Heritage Park. In addition to affecting the validity of the partnerships arrangements advised to the Ministerial decision-maker by DOTARS, this increases the viability risks associated with the project.

4:2.33 On this issue, DOTARS commented as follows to ANAO in February 2007:

> Regardless of whether the land is donated to the Council or retained by the National Trust, the land is still being used for the purpose of the project—that is, as a Heritage Park. As such the land was considered at minimal risk of being used for any other purpose.[460]

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[459] In November 2007, the funding recipient (the Shire of Serpentine-Jarrahdale) advised ANAO that a business plan has now been prepared (the plan was endorsed by Council in September 2007) and detailed designs finalised which allow for more accurate cost estimates to be obtained and revenue streams confirmed.

[460] In November 2007, the Shire advised ANAO that it was in negotiations with the National Trust to establish secure tenure over the land and, when this is agreed, the arrangement will replace the Partnership Agreement between the Shire and the National Trust.

4:2.34 However, the department has not adopted a consistent perspective on such issues. For example, one of two project viability issues drawn to the Ministerial Committee's attention in the department's assessment of RP02295 International Coal Centre was that:

> The Land Tenure for the Centre is still unconfirmed. The applicant has advised that the decision whether to lease or buy the land from the Duaringa Shire Council will be made during the implementation phase of the project. The Department recommends that funding be conditional on confirmation of the Land Tenure and relevant Development Approvals being obtained.

4:2.35 By way of comparison, for the Jarrahdale Heritage Park project, DOTARS' records state that, as part of the project assessment it had been advised by the applicant (on 18 May 2004) that both the Shire and the National Trust of Australia (WA) owned/controlled sections of the site and that a 'development of site' agreement had been entered into. The next day, DOTARS was provided with a copy of the Management Plan for the site (which confirmed that that the majority of the land for the Park was not owned by the Shire) but a copy of the disposition of property plan was not provided until June 2004 and DOTARS did not at any stage obtain a copy of the partnership agreement between the Shire and the National Trust of Australia (WA).

4:2.36 As a result, land tenure was not an issue addressed by DOTARS in its project assessment and advice to the Minister. DOTARS' February 2007 advice to ANAO revealed that it was relying on the applicant to identify relevant matters and that it was unaware of the changed land tenure arrangements because it had finalised its project assessment before it had obtained all relevant information.

Inadequate analysis of information obtained

4:2.37 In terms of DOTARS' internal assessment of applicant and project viability risks, the Internal Procedures Manual states that several tools have been developed to assist departmental officers to assess risk and viability, namely:

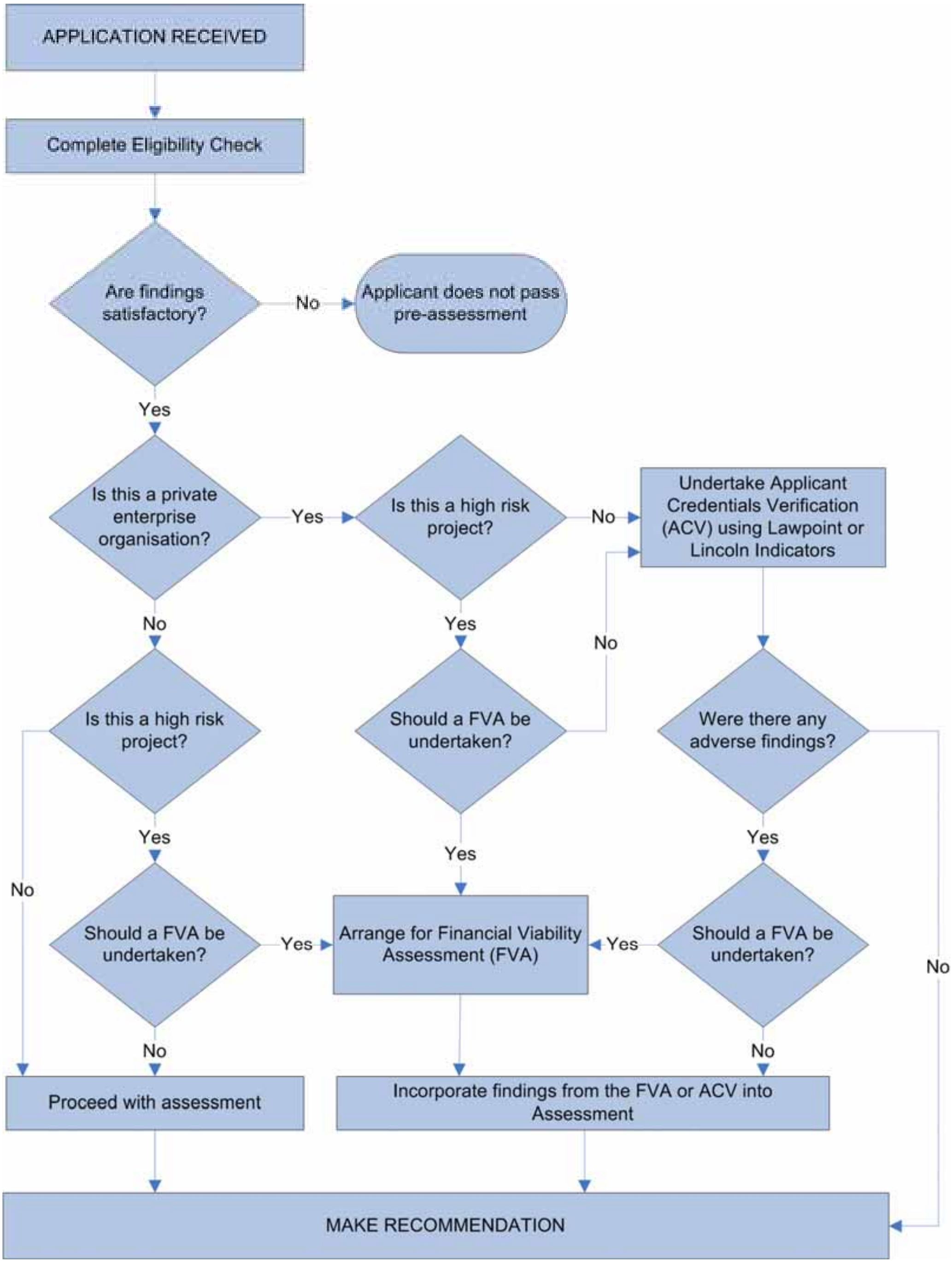
- a set of criteria/questions intended to allow for a more considered decision to be taken when determining the need to carry out an external viability assessment;
- a checklist of additional information that should be sought from the applicant and considered prior to making a final decision on the carrying out of an external viability assessment;

- a template to be used by the assessor when seeking permission from an applicant to conduct an Applicant Credentials Verification or external viability assessment using an external consultant; and
- a process flowchart that outlines the key decisions/questions to be made when considering due diligence.

4:2.38 The first three items are focused on the conduct of external viability assessments. Figure 4:2.3 depicts the last 'tool' referred to in the Internal Procedures Manual as having been developed to assist departmental officers assess risk and viability.

Figure 4:2.3

Due diligence decision-making flowchart



Source: DOTARS Regional Partnerships *Internal Procedures Manual*, September 2005 version.

4:2.39 Notwithstanding the above guidance, in the sample of applications examined by ANAO there was often limited support for conclusions reached by DOTARS in its assessment of viability risks.

4:2.40 For example, ANAO has completed a case study of two applications for Regional Partnerships funding submitted by Mettalodge Pty Ltd, RP00203 Upgrade Sawmilling Capacity to Meet Export Demand and RP00740 AUSGUM Furniture Expansion, submitted in September 2003 and March 2004 respectively. Both applications related to the acquisition of a machining centre and associated equipment. Because the first application was not going to be recommended for funding, the North Queensland Regional Office recorded that it had only undertaken a 'basic' assessment of applicant viability in respect to the application. This application was not approved for funding after it came to the attention of DOTARS that the machining centre for which Regional Partnerships funding was sought was already in place.

4:2.41 The second application was recommended and approved for funding, with DOTARS having advised the then Parliamentary Secretary that the applicant was assessed as a low risk. However, there was no evidence of DOTARS undertaking any further viability assessment of the applicant by examining the revenue and cash flow projections put forward in the second application. This is of particular relevance in light of the disruption to production caused by an earlier fire at the applicant's premises in August 2003 (which had been the impetus for the first application).

4:2.42 As outlined by the ANAO case study of this project, the financial information provided by the applicant raised a number of key issues in relation to the financing of the proposed operation but DOTARS did not identify, address and resolve these matters. In addition, the business plan relied on in DOTARS' assessment was prepared in December 2002, eight months before the August 2003 factory fire. DOTARS did not seek an updated business plan that took account of:

- the circumstances and consequences of the fire;
- the strategies the company was proposing to pursue in order to re-establish production and maintain existing markets; and
- the impact that the cost of implementing those strategies would have on the company's position.

4:2.43 Nonetheless, DOTARS assessed that the viability criteria had been satisfied, with applicant viability rated as representing a low risk and project viability rated as representing a medium risk. In respect to the latter, the department advised the then Parliamentary Secretary that: 'The ability of the project to deliver the anticipated employment outcomes over the project period (five months) is assured.' The funding recipient subsequently relocated its business to Gympie and DOTARS has not been provided with documentation substantiating that the employment outcomes required under the Funding Agreement (being five additional positions at the funding recipient's Emerald premises) were achieved.

4:2.44 As a result of issues raised in ANAO's case study of this project, DOTARS obtained legal advice on its options for terminating the Funding Agreement, due to the project remaining unacquitted for a significant period of time, and whether there were grounds for recovering amounts already paid to the project proponent. The department also engaged its internal auditors to prepare a report of factual findings.[461] In October 2007, DOTARS advised ANAO that it had considered its options and would be undertaking the following steps:

- terminate the Funding Agreement;
- not make the final payment due to non-compliance with the reporting requirements of the Funding Agreement; and
- seek to recover the unspent portion of Regional Partnerships funding.

Truncated assessments

4:2.45 In the report of its inquiry, the Senate Committee concluded that:

> The Committee's inquiry into the regional programs has served as a general study of the importance and benefits of compliance with robust guidelines and the pitfalls of bypassing proper checks and oversight measures. Evidence to the inquiry shows that the main processes by which projects are proposed, considered and approved for funding under the Regional Partnerships Programme are reasonably sound, although there is scope for building more rigour into the governance framework. However, the case studies in this report are telling. In instances where the usual processes for developing and

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[461] The internal audit work was undertaken as an Agreed Upon Procedures engagement. As outlined in Australian Auditing Standard AUS904*, Engagement to Perform Agreed-upon Procedures*, a report of the factual findings of agreed-upon procedures does not express any assurance. Instead, users of the report assess for themselves the procedures and findings reported by the auditor and draw their own conclusions from the work. In this respect, the department's internal auditors did not express any assurance on the funding recipient's compliance with the Regional Partnerships Funding Agreement.

> assessing applications have been bypassed or truncated, or the department employed the (then) unpublished SONA procedures in order to allow projects to become eligible for RPP funding, projects have stalled, collapsed or attracted controversy.[462]

4:2.46 In reaching this conclusion, one of the projects to which the Senate Committee made particular reference was the Beaudesert Rail grant. The Committee considered that this project served as a warning of the effects of expediting projects without undertaking adequate due diligence checks.[463] The Committee's report stated that Beaudesert Rail's financial viability was marginal at best (it was under administration at the time of the RP grant) and it ceased operation in August 2004 with creditors taking possession of its assets in February 2005.[464] However, in June 2007, DOTARS advised ANAO that:

> The Beaudesert Rail project was funded from a separate appropriation and managed outside the Regional Partnerships programme processes. References to Beaudesert Rail are inappropriate in the audit of Regional Partnerships.

4:2.47 The Regional Partnerships Programme is funded through the annual administered appropriation made to the department's Outcome 2, which is then administratively allocated at the programme level. The provision to DOTARS of an increase to its Outcome 2 administered annual appropriation in 2004–05[465] to take account of expenditure made in 2003–04 does not alter the situation that the Beaudesert Rail grant was paid in 2003–04[466] from within the existing Regional Partnerships annual administered appropriation allocation. Accordingly, this project has been included in the ANAO analysis of the number and value of projects approved for funding through Regional

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[462] Senate Committee Report, op. cit., p. 197.

[463] ibid., p. xiii.

[464] ibid.

[465] On 11 December 2003, the then Minister for Transport and Regional Services wrote to the Prime Minister advising that Beaudesert Rail had met the condition on the grant that at least $800 000 be obtained from the Queensland State Government and/or other sources. The then Minister further advised: 'It was not possible to include the supplementation at Additional Estimates because the conditions of the grant had not yet been met. As such, I propose to fund the grant from within the existing resources of the Regional Partnerships programme. This will limit the programme's ability to fund other worthwhile regional projects. Accordingly, I seek your approval to provide supplementation of $600 000 in 2004–05, in the 2004–2005 Budget context, to reimburse the Regional Partnerships programme. This is consistent with the original intent to provide new funding to assist Beaudesert Rail.' The 2004–05 Budget included an Expense Measure under DOTARS' Outcome 2 of $600 000 for 'Regional Partnerships Programme—Beaudesert Shire Railway'.

[466] As noted in the Senate Committee's report (p. 64), the first grant instalment was paid to Beaudesert Rail on 18 December 2003 and the second in February 2004.

Partnerships in the first three years of the Programme, whilst recognising that the project did not proceed through the normal Programme application, assessment and approval processes.[467]

4:2.48 Similar to Beaudesert Rail, the sample examined by ANAO included projects where inadequate due diligence was a consequence of truncated assessments. For example, in respect to RP01101 Beef Australia 2006, the department's assessment of a $2 200 000 (plus GST) project was undertaken in less than six days. The assessment of this project was submitted to the then Parliamentary Secretary on 21 June 2004 as part of the third batch towards the target of 100 project assessments the department was aiming to deliver to the then Parliamentary Secretary between 16 June and 25 June 2004.[468]

4:2.49 ANAO's case study of RP01101 outlined that important elements of the application, assessment and approval processes were bypassed for this project. Specifically, funding was approved by the then Minister for Transport and Regional Services prior to any documentation being provided to the department with respect to the application such that no assessment had been undertaken and documented against the Programme criteria. A truncated departmental assessment was subsequently undertaken, with the then Parliamentary Secretary then endorsing the Minister's earlier funding approval, prior to the then Minister for Transport and Regional Services announcing the funding on 2 July 2004. In terms of viability risks, the case study outlines that:

- DOTARS' assessment did not address either the funding provided to the earlier 2003 exposition by the Department of Agriculture, Fisheries and Forestry (DAFF), or the appropriateness of DOTARS now funding the same event. In particular, there was no evidence of any inquiries being undertaken in respect to whether the project had demonstrated sufficient on-going sustainability arising from the earlier funding of $2 200 000 to indicate that there was value for money to the

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[467] Other projects where Regional Partnerships was used as an available funding source for projects that had not been the subject of an application are similarly included in the audit examination of the Regional Partnerships Programme. This includes, for example, RP02546 Mayors Flood Appeal, in respect of which $50 000 in Regional Partnerships funds were approved and paid in 2005–06 following an announcement by the Prime Minister of an Australian Government contribution to an appeal to assist small businesses affected by the Molong floods.

[468] DOTARS records state that, at a meeting on 16 June 2004, the then Parliamentary Secretary had asked the Department to put forward 100 projects for her consideration by close of business Friday 25 June 2004.

Commonwealth in providing a further $2 200 000 to stage the 2006 exposition. In this respect, as a consequence of the failure to discuss the funding of the 2003 event with DAFF, DOTARS was unaware that DAFF's view, as it had advised the then Minister for Agriculture, Fisheries and Forestry on 17 March 2004, was that it would be reasonable to expect the 2006 event to be self-sustaining without the need for continued Commonwealth support; and

- there was non-adherence to the then applicable Internal Procedures Manual requirement that assessments of projects from non-profit entities for a commercial activity with a value greater than $250 000 should, in every case, [*Emphasis as per original]* include external consultants assessing:
    - the applicant's financial risk status involving checks of the ownership, structure and financial performance and position of the proponent organisation; and
    - the project's commercial risk/sustainability by verifying whether the proposal is commercially viable, as substantiated by market research into matters such as product/service positioning, established competitors, identified demand for product/services as well as whether the proposal is financially viable, as substantiated by the income and expenditure projections for the project, capacity to meet cash flows, accuracy of costings, capacity to achieve projected sales, and soundness of underlying business assumptions.

Insufficient expertise within DOTARS

4:2.50 From ANAO's examination of a sample of 278 application assessments, it was evident that, in a number of areas, the department generally lacked the expertise 'in-house' and had not contracted in the necessary skills to properly scrutinise the applications for funding, including the application of accepted evaluation techniques. This was particularly the case in relation to many of the applications in ANAO's sample submitted by for-profit entities, as well as in relation to major construction projects (see Chapter 4 in this part of the audit report in respect to for-profit entities and Chapter 5 in Part 5 of the audit report with respect to construction projects).

Economic evaluation of projects

4:2.51 Economic evaluation of investment proposals is often undertaken using time-adjusted cash flow analyses such as the calculation of the project's net present value (NPV). A project's NPV is derived by discounting the project's net cash receipts using the minimum required rate of return on new investments (often referred to as the entity's cost of capital), summing these discounted receipts over the lifetime of the proposal and deducting the initial investment outlay. Under corporate finance principles, a project with a positive NPV should be undertaken, but a project with a negative NPV should not (unless non-financial benefits outweigh financial considerations).

4:2.52 In this context, the project NPV was calculated as part of application assessment in relation to four projects in ANAO's sample. Each of these was a project submitted by a for-profit organisation.[469] However, a project NPV was not calculated for the other 24 projects in ANAO's sample submitted by for-profit entities or for any of the projects (including commercial projects) submitted by LGAs or non-profit entities).

4:2.53 By way of comparison, assessment of the election commitment project RP01879 Dalby Wambo Events Centre Covered Arena ($2 000 000 plus GST) included NPV analysis of the project data provided to DOTARS by the local Council, being three models of five year cash flow projections (a high range, a base range and a low range). Demonstrating the value that can obtained from such analysis, in that instance the November 2005 report of an external viability assessment included the calculation of a negative NPV under each of the three models. The assessment report concluded that:

> A negative NPV suggests that the project is not self-sustaining. However, since the Centre's objective is to serve the community needs of Dalby and Wambo Shire and not for profit-making purposes, both financial and non-financial benefits should be considered during the funding decision process.

4:2.54 In this context, the external viability assessment commented that it was important that the applicant had sufficient reserves/working capital to cover the shortfall and recommended that the Council be required to demonstrate that it had the capacity to provide financial support to the operations of the

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[469] Namely: RP02295 International Coal Centre (approved for $2 000 000 plus GST); RP01863 Port Kembla Gateway Export and Productivity Development (not approved, applied for $826 250 plus GST); RP01459 Sakai/CIC Business and Export Development Project (approved for $250 000 plus GST); and RP01365 Undercarriage Remanufacture Facility (approved for $500 000 plus GST).

Centre, at least for the first five years. This recommendation was not implemented by DOTARS, and the project assessment provided to the Ministerial Committee for its consideration did not mention the negative project NPV, or its implications.[470]

4:2.55 Similarly, each of the NPV calculations done for projects in ANAO's sample was undertaken by an external assessor as part of an external viability assessment report commissioned by DOTARS. In this respect, the Internal Procedures Manual does not provide any guidance to departmental officials that are assessing Regional Partnerships applications for funding on the circumstances in which it would be appropriate to calculate a project NPV, how to calculate a reliable NPV or how to interpret and act on the results.

4:2.56 For example, in this latter respect, the external viability assessment conducted in December 2005 in relation to RP02295 International Coal Centre (which was seeking $2 000 000 (plus GST) in Regional Partnerships funding) included the calculation of an NPV using the provided five years of projected cash flows. The report stated that:

> The negative NPV of $9 293 982 based on a discount rate of 5.38 per cent indicates that the Centre is not attractive from the viewpoint of an investor.
>
> NPV calculation on a longer projection, say 10 years, will still result in a negative NPV given the large amounts of initial capital outlay compared to a relatively small average cash surplus.
>
> From the Feasibility Study, we note that the funding sources do not require a return on investment. On this basis, the NPV calculation may not be the only performance measurement in assessing the attractiveness of the Centre. The project team has indicated that the Centre has other indirect benefits such as showcasing the coal and coal industry, improving tourism and economy within the region. This will benefit the various fund providers namely Australian and State Governments, the Council as well as the coal producers and suppliers.

4:2.57 Nevertheless, the calculation of a negative NPV was a key finding that influenced the external assessor to rate the financial viability risk of the project as medium. However, DOTARS did not mention the negative NPV (or the overall findings of the external viability assessment) in its advice to the

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[470] The external viability assessment report also recommended that a financial projection be calculated over a period longer than five years. This was not done.

Ministerial Committee that recommended funding be approved.[471] This suggests that the department may not have appreciated the significance of a negative project NPV in relation to the financial viability of project proposals.[472]

Assessing and managing foreign exchange risks

4:2.58 Foreign exchange risk is defined as the extent to which future cash flows are susceptible to variations in exchange rates.[473] Accordingly, foreign exchange risk includes the potential for adverse foreign exchange rate movements to increase project costs. Under the Australian Government's Foreign Exchange Risk Management Policy, DOTARS is able to require funding recipients to manage their foreign exchange risk, so as to protect the viability of the project being funded.

4:2.59 In this respect, where a funded project involves the importation of equipment or other items, foreign exchange risk can have a considerable impact on project viability risks. However, in a number of the projects examined by ANAO, the department did not exhibit an understanding of foreign exchange risk and its management. This was demonstrated in ANAO case studies of:

- RP01365 Undercarriage Remanufacture Facility;
- RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith project; and
- RP01459 Sakai/CIC Business and Export Development project.

Over-reliance on statements made by applicants

4:2.60 When applying for funding, applicants are required to sign a declaration that states, among other things, that:

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[471] DOTARS advised the Ministerial Committee that the project partially satisfied the project viability criterion, with concerns raised in relation to a budget shortfall of $298 000 and the unconfirmed nature of land tenure for the centre.

[472] A negative NPV was also calculated by the external assessor in relation to RP01459 Sakai/CIC Business and Export Development Project ($250 000 plus GST). As for RP02295 International Coal Centre, DOTARS made no mention of this outcome in its advice to the then Minister that funding be approved.

[473] ANAO Audit Report No.45 1999–2000, *Commonwealth Foreign Exchange Risk Management Practices*, Canberra, 31 May 2000, p. 32.

> I declare the information I have given on this form is complete and correct and that the group/organisation that I represent (and the sponsoring organisation, if nominated) supports the project. My organisation or I will inform the appropriate Regional Office of the Department of Transport and Regional Services promptly of any changes to this information.

4:2.61 An important aspect of the assessment process for all applications is the scrutiny and analysis applied by DOTARS to the information and documentation provided by applicants in support of their application. Accordingly, whilst the above declaration provides some assurance, it does not obviate the need for applications to be appropriately examined in relation to the accuracy and completeness of the information that has been provided, and to assess the extent to which the Programme criteria have been satisfied. This is recognised in the DOTARS Internal Procedures Manuals applicable during the period examined by ANAO, which stated:

> An assessment of project viability requires careful consideration of the claims made in the application form and supporting documentation.

4:2.62 In this respect, it is through the appropriate consideration of the material provided by the applicant, and obtained from other sources, that DOTARS will be in a position to undertake a sound assessment of applicant and project viability risks associated with the project for which funding is being sought. Such due diligence is also necessary for the department to be in a position to provide assurance to the Ministerial decision-maker in relation to the eligibility of an application under the Programme Guidelines, and the extent to which the assessment criteria have been satisfied.

4:2.63 On a risk management basis, it is appropriate that DOTARS prioritise and focus its assessment on key aspects of applications for Regional Partnerships funding. However, in a number of instances in the sample examined by ANAO, it was evident that the department had not applied sufficient resources to critical elements of project proposals. In relation to the identification and assessment of viability risks, this shortcoming is illustrated by a number of ANAO case studies, including:

- RP01459 Sakai/CIC Business and Export Development Project (mentioned at paragraph 4:2.59) where, notwithstanding the commercial nature of the project for which funding was being sought, DOTARS made no inquiries of the applicant as to the status of the project during the seven months it took to complete its assessment. All inquiries undertaken by DOTARS related to a project that was interpreted to have remained static from the time the application was submitted. This was despite the application having made it clear to DOTARS that the successful and timely completion of the project was essential to the applicant's viability. In the case of RP01459, making such inquiries would have enabled the department to identify that the applicant had already received the imported equipment that was the subject of the application prior to DOTARS completing its assessment; and

- RP01578 Aerox Odour Control Filters for Grape Marc Separator/Dryer which related to a high risk project involving a recently established company with no track record of profitable operations implementing a new process and relying on an undeveloped market for most of its revenues. As a result of inadequacies in the assessment process, funding for the project was approved on a false premise that the South Australian Environmental Protection Authority had stipulated the installation of odour control filters well after the overall project had been initiated. Appropriate scrutiny of this key statement made in the application would have necessarily raised questions about the reasons Regional Partnerships funding was being sought, noting the entity entered liquidation the month after the final payment of Regional Partnerships funds was made.

4:2.64 As noted at paragraph 4:1.24, similar concerns were raised by the Senate Committee in the report of its inquiry into the Regional Partnerships Programme.

Revised internal procedures

4:2.65 In June 2007, DOTARS provided ANAO with a copy of Section 4: *Application Assessment* of a draft revised Internal Procedures Manual. DOTARS advised ANAO that it had already implemented a number of the checklists, templates and the risk management framework matrix from the draft revised Manual. DOTARS further advised ANAO that it was endeavouring to finalise the Manual prior to training that would be delivered towards the end of July 2007 for assessors, and then for ACCs (in relation to developing an application) thereafter. On 8 November 2007, DOTARS advised ANAO that it had provided training to all assessors on the new risk assessment process in July 2007. DOTARS further advised that:

> The ACCs have received individual training on the delivery of the new Regional e-Grants project application system as well as information sessions on the *Regional Partnerships* Programme. Procedures for ACCs to help them assist applicants to develop applications have been prepared. The draft procedures have been circulated to an ACC Executive Officers Reference Group for comment prior to being finalised.

4:2.66 In relation to applicant and project viability risks, the revised Internal Procedures Manual stated that:

> It is important that all risks and proposed treatments are identified and provided to the Ministerial Committee for consideration.

4:2.67 Accordingly, the revised Internal Procedures Manual requires that assessors use various checklists to identify viability risks under five headings (see Table 4:2.2),[474] as follows:

- assessments of applicant viability are to address corporate and personnel, financial position, financial management and elements of project delivery; and
- assessments of project viability are to address project delivery and project sustainability.

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[474] The revised Internal Procedures Manual states that the risks identified in the checklists are not exhaustive and that the assessor may identify additional risks.

Table 4:2.2

Revised internal procedures for identifying and analysing viability risks

Checklist	Issues to be analysed	Possible risk treatments
Corporate and personnel risk	Gather and assess information on the applicant from the Regional Office, ACC and an Applicant Credentials Verification.	- Measures recommended by an external viability assessment. - Establishment of a project steering committee, possibly including ACC representation. - More regular reporting.
Applicant financial viability	Calculation of various financial ratios for all organisations. Two additional items for LGAs relating to State government reviews and LGA financial position.	- Measures recommended by an external viability assessment. - Progress reports to include bank statements. - Separate bank account and evidence of use of funding. - More evenly distribute Regional Partnerships funding.
Financial management viability	Previous experience in managing grants. Experience in managing a commercial business. Access to accounting expertise.	- Measures recommended by an external viability assessment. - More regular reporting requirements. - Separate bank account and evidence of use of funding.
Project delivery risk	Delivery of previous projects. Whether the applicant has identified all required government approvals. Preparation of a detailed and specific project plan. Project costing.	- Measures recommended by an external viability assessment. - Ensuring the applicant intends to source appropriate expertise. - Control mechanisms for third-party managed projects. - Establishment of a project steering committee. - Establishing construction certificate approvals as milestones. - More evenly distribute Regional Partnerships funding. - Making payments in arrears unless a defensible explanation of 'need' for advance payment is documented. - Requesting evidence of development and environment and heritage approvals as a condition of Committee approval.
Project sustainability	Commercial projects: - demonstrated and independently verified demand; - cash flow projections indicate project will be self-sustaining beyond the funding period; - business assumptions are reasonable; - where equipment being	- Measures recommended by an external viability assessment. - Request a business plan be prepared and submitted before finalising the funding recommendation. - Where Regional Partnerships is funding an asset such as equipment or the purchase of land, inclusion of

Checklist	Issues to be analysed	Possible risk treatments
	purchased from overseas, an exchange rate risk management strategy is identified; - scenario analysis; - costing of employment outcomes; - relationship between variable costs and increased production; and - funding for future stages is identified and committed. Non-commercial projects: - strategies to meet ongoing costs and management structure for project assets beyond the funding period; - determination of ownership of project assets in the event of wind-up; - assurances about tenure where land or building is owned by a third party; - evidence of local support for the project output; - ongoing support from critical partners; and - funding for future stages being identified and committed. Studies/plans: demonstrable funding for implementation.	specific clauses in the Funding Agreement to protect the Commonwealth's interest. - Where a third party is the owner of a building or land, inclusion of a Purposes Deed in the Funding Agreement. - Where there is doubt over the ongoing commitment for management or maintenance, request evidence of a commitment to meet any costs. - For projects involving foreign exchange risk that could impact on viability, request the identification of a strategy to manage this risk.

Source: ANAO analysis of draft revised Internal Procedures Manual, June 2007.

4:2.68 Based on the completed checklists, assessors are to consider the likelihood, and impact, of the risks occurring. This involves the use of a risk level table (see Figure 4:2.4) to determine whether each identified risk is acceptable or requires investigation of treatments to mitigate the risk. Except for low risks that require no treatment action, assessors are expected to include risks in a Risk Analysis Table together with the assessment of the likelihood and consequence of the risk, proposed risk treatments, a post-treatment assessment of the risk likelihood and consequence and a rating as to whether the risk is acceptable or not. This analysis is then to be used to decide whether the project can be recommended for funding and whether the risk and treatments need to be included in the briefing for the Ministerial Committee.

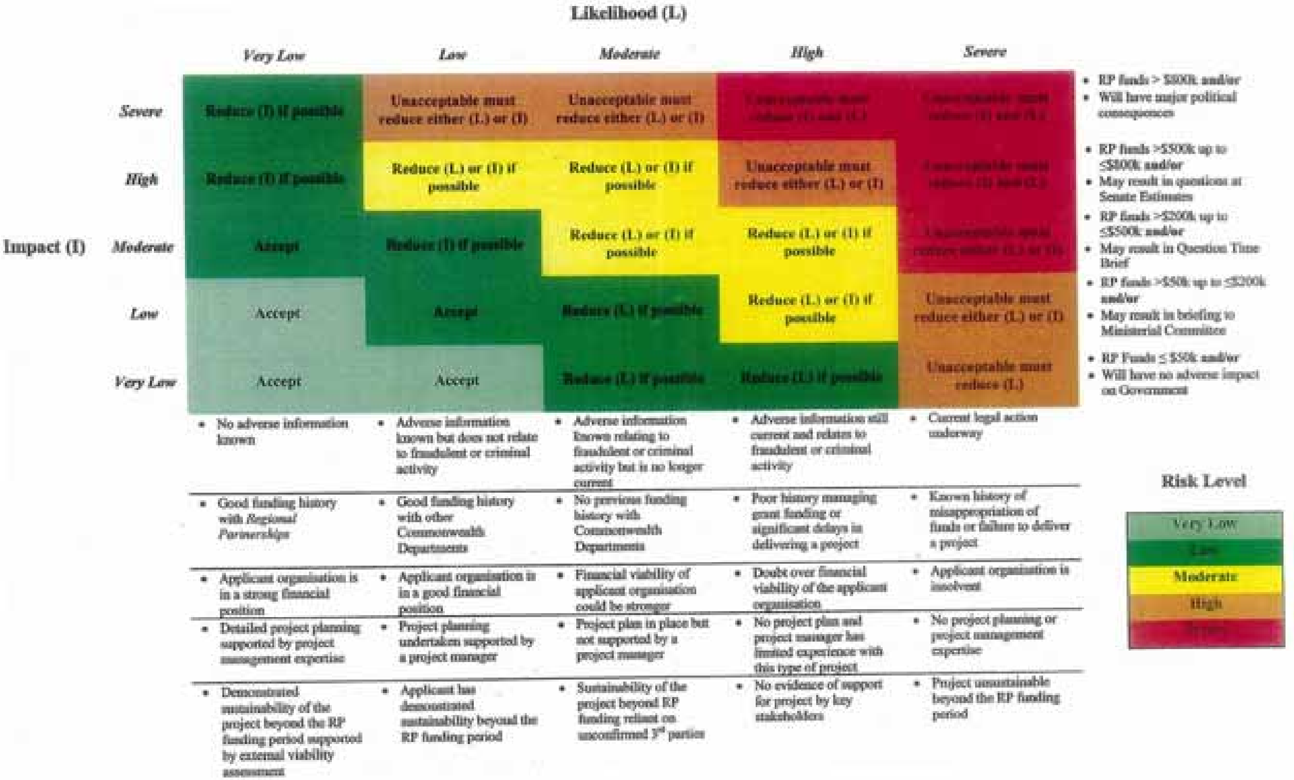
4:2.69 Implementation of these revised procedures, combined with staff training and the review of the Long Form Standardised Funding Agreement that was underway at the time of audit, can be expected to result in a stronger focus on the identification, assessment and management of applicant and project viability risks. In terms of the findings of this performance audit, they can be expected to better inform Ministerial decisions about whether to approve funding for projects by:

- DOTARS obtaining sufficient and appropriate information to identify viability risks and inform analysis of identified risks;
- balancing the importance of timely assessments with scrutiny of information that has been provided by the applicant, together with other necessary information that has been obtained as part of the due diligence process; and
- in circumstances where assessments are truncated at the request of Ministers, ensuring that the assessment and departmental advice to the Ministerial decision-maker is appropriately qualified.

4:2.70 One area not addressed by the changed procedures and training is the use of economic evaluation techniques. In instances where an external viability assessment is undertaken, the external assessor often undertakes an economic evaluation of project cash flows. However, there will be projects that are not subject to an external viability assessment where economic evaluation would also add value to the assessment and advice to the Ministerial decision-maker. Accordingly, there would be benefit in the revised Internal Procedures Manual and related training identifying the circumstances in which this sort of analysis should be undertaken together with guidance on how to undertake this analysis and interpret the results.

Figure 4:2.4

Regional Partnerships Risk Level Table for assessing applicant and project viability



		Likelihood (L)					
		Very Low	*Low*	*Moderate*	*High*	*Severe*	
Impact (I)	*Severe*	Reduce (I) if possible	Unacceptable must reduce either (L) or (I)	Unacceptable must reduce either (L) or (I)	Unacceptable must reduce (I) and (L)	Unacceptable must reduce (I) and (L)	• RP funds > $800k and/or • Will have major political consequences
	High	Reduce (I) if possible	Reduce (L) or (I) if possible	Reduce (L) or (I) if possible	Unacceptable must reduce either (L) or (I)	Unacceptable must reduce (I) and (L)	• RP funds >$500k up to ≤$800k and/or • May result in questions at Senate Estimates
	Moderate	Accept	Reduce (I) if possible	Reduce (L) or (I) if possible	Reduce (L) or (I) if possible	Unacceptable must reduce either (L) or (I)	• RP funds >$200k up to ≤$500k and/or • May result in Question Time Brief
	Low	Accept	Accept	Reduce (L) if possible	Reduce (L) or (I) if possible	Unacceptable must reduce either (L) or (I)	• RP funds >$50k up to ≤$200k and/or • May result in briefing to Ministerial Committee
	Very Low	Accept	Accept	Reduce (L) if possible	Reduce (L) if possible	Unacceptable must reduce (L)	• RP Funds ≤ $50k and/or • Will have no adverse impact on Government
		• No adverse information known	• Adverse information known but does not relate to fraudulent or criminal activity	• Adverse information known relating to fraudulent or criminal activity but is no longer current	• Adverse information still current and relates to fraudulent or criminal activity	• Current legal action underway	
		• Good funding history with *Regional Partnerships*	• Good funding history with other Commonwealth Departments	• No previous funding history with Commonwealth Departments	• Poor history managing grant funding or significant delays in delivering a project	• Known history of misappropriation of funds or failure to deliver a project	
		• Applicant organisation is in a strong financial position	• Applicant organisation is in a good financial position	• Financial viability of applicant organisation could be stronger	• Doubt over financial viability of the applicant organisation	• Applicant organisation is insolvent	
		• Detailed project planning supported by project management expertise	• Project planning undertaken supported by a project manager	• Project plan in place but not supported by a project manager	• No project plan and project manager has limited experience with this type of project	• No project planning or project management expertise	
		• Demonstrated sustainability of the project beyond the RP funding period supported by external viability assessment	• Applicant has demonstrated sustainability beyond the RP funding period	• Sustainability of the project beyond RP funding reliant on unconfirmed 3rd parties	• No evidence of support for project by key stakeholders	• Project unsustainable beyond the RP funding period	

Risk Level

Very Low
Low
Moderate
High
Severe

Source: Draft revised Internal Procedures Manual, June 2007, Chapter 4, p. 13.

4:3 External Viability Assessments

This chapter examines the department's processes for obtaining and acting upon independent expert advice to inform its assessment and management of viability and other risks relating to projects that have sought, or been approved for, Regional Partnerships funding.

Introduction

4:3.1 The July 2006 Programme Guidelines advised that:

> The Department may commission an independent external assessment of a project to examine viability. This may add to the time that the assessment takes depending on the quality of information supplied by the applicant.[475]

4:3.2 According to the versions of the Regional Partnerships Internal Procedures Manual in place during the first three years of the Programme, there are three types of external viability assessment that may be conducted:

- Eligibility Check, conducted to confirm the Australian Company Number (ACN), Australian Business Number (ABN), and Goods and Services Tax (GST) status of all applicant organisations;
- Applicant Credentials Verifications, conducted by an external consultant to confirm the ownership and structure of private enterprise applicant organisations; and
- External viability assessments, conducted by an external consultant to confirm whether a proposal is financially viable. These may range from a basic financial assessment of the applicant organisation to a detailed assessment and report on the financial viability of the organisation and project.

4:3.3 The latter two relate to assessing financial viability. Applicant Credentials Verifications examine only applicant viability risks. External viability assessments can assess applicant viability risks, project viability risks, or both.

4:3.4 Of the 278 Regional Partnerships applications in the sample examined by ANAO that had proceeded to a Ministerial funding decision by the

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[475] DOTARS, Regional Partnerships Guidelines, July 2006, p.13.

completion of audit fieldwork, an external viability assessment was commissioned by DOTARS in respect to 19 (seven per cent). This comprised:

- two Applicant Credentials Verifications;
- five external viability assessments examining only applicant viability risks (with one being used in respect to two applications by the relevant applicant)[476]; and
- 11 external viability assessments examining both project and applicant viability risks.

4:3.5 In June 2007, DOTARS provided ANAO with a draft revised section of the Internal Procedures Manual relating to the assessment of viability risks, including the conduct of external viability assessments. In relation to the types of external viability assessments that are routinely to be undertaken, the draft revised Internal Procedures Manual provides for:

- Applicant Credentials Verifications to confirm the ownership and structure of private enterprise applicants and to identify if there is any unfavourable information about the applicant or the key people associated with the applicant's organisation. This assessment is to be mandatory for private sector applicants, unless the DOTARS assessor requests an external viability assessment, in which case the external viability assessment is to cover this aspect. The information obtained from an Applicant Credentials Verification is to be used when assessing an application against the applicant viability criterion; and
- External viability assessments to provide information to address the applicant viability, project viability and competitive advantage criteria. The external viability assessment is expected to identify, and provide analysis of, risks or potential risks and suggest possible risk treatment measures as part of the risk analysis.

The decision to obtain external advice

4:3.6 The various versions of the Regional Partnerships Internal Procedures Manual that have existed throughout the course of the Programme have included criteria for when external advice on viability issues should be sought in relation to individual applications. In particular, relatively clear criteria were

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[476] One of these applications also had a 'market impact assessment' commissioned by DOTARS.

included in the Manual that applied between 1 July 2003 and 22 June 2004. The threshold matrix included in that Manual required a sliding scale of applicant and project viability checks based on consideration of applicant type, project type and amount of funding being sought. An external viability assessment of the project's commercial risk/sustainability was required for all projects requesting funding of $250 000 or more, regardless of the type of applicant.

4:3.7 The Manual that applied between 23 June 2004 and February 2005 had less stringent and clear criteria, but still required that all applications for funding of $50 000 or more from either non-profit organisations for commercial activities or from for-profit organisations be subject to at least an external viability assessment of the applicant's financial risk status. The requirement for an assessment of a project's commercial risk/viability was to be determined on a case-by-case basis, regardless of the applicant type, project type or amount of funding being sought.

4:3.8 The Internal Procedures Manuals that applied between February 2005 and June 2007 have still set out criteria for determining when an external viability assessment should be commissioned in respect of individual applications. However, those criteria were less clear than those included previously, being based on the departmental assessor's judgement regarding the perceived project risk. In particular, a risk-based matrix was no longer included. Instead, the Manual required that external viability assessments should be undertaken when the assessor considered the project viability to be a medium to high risk (with no distinction being made in the Manual with regard to applicant or project type). Such judgements were, necessarily, being exercised in the absence of the viability analysis that would result from an external assessment.

4:3.9 The draft revised Internal Procedures Manual (provided to ANAO in June 2007), are to commence operation in July 2007. The revision incorporates a checklist for assessors to use to decide whether an external viability assessment is required (see Table 4:3.1).

Table 4:3.1

External viability assessment requirement checklist

Parameters	For-profit organisations	Non-profit organisations	Local Government Authorities
Seeking more than $250 000	Yes		
Operating in a commercial environment and seeking more than $250 000		Yes	Yes
Seeking more than $50 000 and operating in a commercial environment, where there are concerns about competitive advantage	Yes	Yes	Yes
Seeking more than $50 000 and the project type is deemed to be high risk, for example, the application is for a project type that has a poor track record of success	Yes	Yes	Yes
Seeking more than $50 000 and the risk assessment provided by the applicant indicates a high-risk project	Yes	Yes	Yes
The assessor has concerns about the credibility of the applicant as a result of Applicant Credentials Verification	Yes	Yes	

Source: Draft revised Internal Procedures Manual, June 2007.

4:3.10 These parameters represent a considerable improvement over the documented procedures that were in place between June 2004 and June 2007. However, as with earlier versions of the Internal Procedures Manual that included financial thresholds, the parameters that have been identified by DOTARS as triggering a requirement to undertake or consider the commissioning of external viability assessments have been based around the quantum of Regional Partnerships funding being sought, rather than the size and complexity of the overall project to which the Regional Partnerships funding would be contributing. In this respect, it is often the case that the Regional Partnerships funding bid is below the usually applied thresholds for an external viability assessment to be commissioned, but will be contributing to a much larger project. In addition, the overall project may involve multiple funding partners, increasing its complexity.

4:3.11 The approach set out in the revised Internal Procedures Manual continues to suggest that an external viability assessment will often not be required for large and/or complex projects unless the applicant is seeking a substantial contribution from the Programme. Specifically, DOTARS focuses on the Regional Partnership funds at risk rather than the risks involved with respect to the applicant and/or its project (to which Regional Partnerships is being asked to contribute).[477] This approach does not ensure that the Ministerial decision-maker is adequately informed when considering spending proposals for approval.

4:3.12 Ministers approve Regional Partnerships funding for a project on the basis of their consideration of the value for money to the Australian Government represented by a proposal that is based upon specified project outcomes being achieved through the Regional Partnerships contribution, together with specifically identified cash and in-kind contributions from specified other parties. Accordingly, there would be value in enhancing the parameters for deciding whether to obtain external advice on viability risks to include consideration of the size and complexity of the overall project, as well as the amount of Regional Partnerships funds being sought.

4:3.13 By way of comparison, DOTARS typically considers the full project when assessing the outcomes expected to be achieved by the project to which Regional Partnerships funds is to contribute. Placing emphasis on the broad outcomes expected to be achieved from the overall project whilst at the same time focusing on the quantum of Regional Partnerships funding when deciding the extent of due diligence inquiries that will be undertaken increases the likelihood of projects being approved for Regional Partnerships funding, but with reduced scrutiny of viability issues.

4:3.14 A further consideration in this area is the depth and rigour of inquiry undertaken in the context of an external viability assessment. This will vary depending upon the terms of reference identified by the department and the cost limits applied. In total, within the sample examined by ANAO, DOTARS expended $52 158 over three financial years in obtaining external applicant and/or project viability checks or assessments in relation to 19 applications for projects worth $55.56 million (plus GST). Those applications were seeking a total of $11.46 million in Regional Partnerships funding, of which $7.99 million was approved.

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[477] For example, the Risk Criteria checklist included in earlier versions of the Internal Procedures Manual developed to assist assessors to make a decision about when an external viability assessment should be carried out on a Regional Partnerships application indicated that a positive answer to questions such as whether the cash co-funding provided for the project was high; the cash co-funding for the project was being provided from various sources; and the funding applied for from Regional Partnerships was less than $500 000 would be indicative that an external viability assessment was not required.

4:3.15 In that context, there is scope for DOTARS to improve the extent and depth of external viability assessments undertaken, particularly in respect to high value, complex projects. In this respect:

- in June 2007, DOTARS advised ANAO that it had developed a new application form that requires applicants to provide additional information to support the external viability assessment process when the application is for funding in excess of $250 000;
- the draft Internal Procedures Manual requires that DOTARS assessors determine whether sufficient information is available for the external assessor to prepare a comprehensive and accurate report for the department and, where this is not the case, further information is required to be obtained; and
- in June 2007, DOTARS further advised ANAO that:

> The Department is in the process of clarifying its requirements with Financial Viability Assessment providers and what format these should be presented. In particular, we are stressing to our providers that if they have not been provided with sufficient information to make an informed assessment of the financial viability of an applicant or project, they are to request the additional information through the Department.

4:3.16 The revised Internal Procedures Manual also requires that the assessor specify the scope of the external viability assessment that is required for the project. Both long reports and short reports are to include analysis[478] of historical and projected financial materials as well as market data, calculation and analysis of key financial indicators for the applicant and related entities. In addition, long reports are to include investigation into any competitive advantage issues. Further, one of the providers of external viability assessments is able to contact the applicant to discuss findings and actions to be undertaken, if required, and where required.[479] For both forms of assessment, the external assessor is required to produce a report on its key

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[478] Short reports are only required to involve a desktop analysis.

[479] In this respect, the ANAO case study of RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith examines the Programme administration challenges that arise in circumstances where an applicant is given access to information in an external viability assessment report prepared for the department as part of its assessment of a project, combined with the applicant being provided with an opportunity to engage in the assessment process in a manner that is not generally available to applicants by commenting on and responding to the external viability assessment report.

findings and recommendations including a discussion of the analysis performed.[480]

Adherence to documented criteria

4:3.17 Even where the Internal Procedures Manual has included clear criteria for determining when an external viability assessment would be required, the decision as to whether or not to obtain external advice in respect of a particular application has been made by DOTARS on a case-by-case basis. The important role played by judgement in such circumstances is recognised, particularly in relation to projects that the department does not intend supporting due to other deficiencies identified against the Programme Guidelines or where the nature of the project may not lend itself to such analysis, such as feasibility studies. However, the benefits of having clearly articulated criteria are negated where judgement is exercised to depart from documented procedures without the reasons for such departures being fully considered, and documented.

4:3.18 In this context, 79 applications in the sample examined by ANAO met the criteria set out in the relevant Internal Procedures Manual for external advice to be sought. However, as illustrated by Table 4:3.2, DOTARS proposed to commission an external viability assessment in respect to only 21 of these projects (27 per cent). This comprised:

- 15 projects (19 per cent) where external advice was sought as part of the assessment of the project, prior to providing advice to the Ministerial decision-maker as to whether funding should be approved; and
- six projects (eight per cent) where external advice was proposed to be obtained after the project was approved for funding. However, the department only commissioned three of those assessments, despite the satisfactory completion of the assessments being a condition of the Ministerial funding approval.[481]

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[480] For long reports, an additional requirement is that the report be detailed.

[481] This issue also relates to a further project in respect of which the Ministerial decision-maker had required a satisfactory external viability assessment as a condition of approving a ‘not recommended’ project, but DOTARS did not undertake the assessment—see further at paragraphs 4:3.39 to 4:3.45.

Table 4:3.2

DOTARS' compliance with its internal procedures for commissioning external viability assessments

Period in which DOTARS' assessment was completed	Criteria in applicable Internal Procedures Manual for commissioning an external assessment	Number of applications meeting criteria	Number of viability assessments commissioned or proposed by DOTARS	Per cent
1 July 2003 to 22 June 2004	Projects seeking funding of $250 000 or more	13	4	31%
23 June 2004 to February 2005	Projects seeking $50 000 or more for non-profit organisations undertaking commercial activity or a private sector applicant	10	3	30%
February 2005 onwards	External viability assessment for projects that are rated with a medium to high project viability risk	50	12	24%
	Applicant credentials check for private sector applicants rated with a low project viability risk	6	2	33%
Totals		**79**	**21**	**27%**

Source: ANAO analysis of applications and DOTARS assessment records.

4:3.19 In this context, the strengthened procedures concerning when an external viability assessment should be conducted will be of little benefit unless they are underpinned by a greater commitment to implementing such criteria by actually commissioning external viability assessments where the criteria have been satisfied. Further, as mentioned, it is sound administrative practice to document reasons for departing from Programme procedures. In these respects, in June 2007, DOTARS advised ANAO that:

- external viability assessments are now routinely undertaken on all projects that fall within the parameters identified in Table 4:3.1, even if it is likely that the project will not be recommended for Regional Partnerships funding; and

- where a decision is made not to undertake an external viability assessment, even though the project and/or applicant falls within the designated parameters, the reasons for deciding not to do so will be fully documented and endorsed at the appropriate level.

4:3.20 In relation to this latter improvement initiative, the revised Internal Procedures Manual requires that:

> Where the application is considered to be medium to high risk, but a decision not to undertake an FVA [*Financial Viability Assessment*] is made the assessor should record the reasons in TRAX and on the application file.

4:3.21 In discretionary grants programmes where Ministers make the spending decisions, such as Regional Partnerships, it is important that, as well as the departmental assessor making a record of their reasons, the Ministerial decision-making process be appropriately informed of such departures. ANAO considers that there would be merit in the department's revised procedures explicitly adopting such an approach.

Relying on reports undertaken or commissioned by other funding partners or other parties

4:3.22 The February 2005 and September 2005 versions of the Internal Procedures Manual included a Risk Criteria Checklist to assist assessors to make a decision about when an external viability assessment should be carried out on a Regional Partnerships project. The factors to be taken into consideration identified in the checklist included the question:

> Is a pre-existing Financial Viability Assessment for the project already available that demonstrates the viability of the project from an independent source, for example from State Governments or from financial institutions?

4:3.23 The checklist advised that, if the answer was yes, there was no need to proceed with an external viability assessment. However, the Internal Procedures Manual included no procedures for assessing the relevance of viability assessments undertaken by other parties to the project for which Regional Partnerships funding is being sought. Nor did it set out procedures regarding obtaining copies of such assessments and, subsequently, appropriately analysing their content and advising the Ministerial decision-maker accordingly. As a result, inconsistent practices emerged. ANAO also identified deficiencies in respect to the manner in which such assessments were incorporated into the departmental assessment of applicant and/or project viability.

4:3.24 This is illustrated, for example, by ANAO's case study of RP01578 Aerox Odour Control Filters for Grape Marc Separator/Dryer where DOTARS advised the applicant that independent financial advice on the applicant's viability would be undertaken as part of the department's assessment of the application. The applicant was also advised that a project viability assessment may also be undertaken. However, in undertaking its first assessment of the project, DOTARS did not commission independent advice on either the applicant's viability or the viability of the project. During the second assessment of this project[482] (which recommended that funding be approved), the applicant contacted the then Parliamentary Secretary's Office and suggested that a viability assessment undertaken on behalf of the State Government in relation to a smaller State Government grant be used to expedite the Regional Partnerships assessment process. A copy of the report was subsequently provided to DOTARS.[483]

4:3.25 By way of comparison, in respect to RP00289 Australia's National Mineral Water and Bathhouse Facility, DOTARS advised the then Parliamentary Secretary that the Victorian State Government had put the project through its financial and viability testing process with a satisfactory outcome. However, in reaching this conclusion, DOTARS did not seek advice from the State Government on the nature and extent of that process or its findings and any recommendations, or obtain a copy of the report(s) of the State Government's testing process, so as to be assured about the nature and extent of the process, its findings and recommendations.

4:3.26 A further instance in ANAO's sample of purported reliance on an assessment commissioned by a State Government agency related to RP01758 Geraldton Marine Service Centre involving the establishment of a marine service centre in the Port of Geraldton based around a heavy boat lifter.

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[482] The second assessment was undertaken following advice to the department that the then Parliamentary Secretary was inclined to support funding for the project but had requested further information. In providing the second assessment to the then Parliamentary Secretary, which recommended funding approval, DOTARS stated that: 'This project was originally not recommended and sent to Mr Cobb for consideration in Package 90. The Department considers this Package 112 brief to replace the Package 90 brief and, therefore, requests that the latter be disregarded.'

[483] However, in concluding that the application satisfied the applicant and project viability assessment criteria, DOTARS' assessment of the project, provided to the then Parliamentary Secretary on 20 June 2005, did not reflect the applicant viability risks identified in the State Government's report. No reference was made to the poor solvency, liquidity and profitability position the report had identified in respect to the applicant. Ultimately, the recipient of $393 636 (plus GST) in Regional Partnerships funds was declared to be insolvent one month after the final payment of Regional Partnerships funds was made in October 2005.

DOTARS' 29 August 2005 assessment recommending approval of Regional Partnerships funding of $980 000 (plus GST) advised the then Minister that the project was assessed as a medium risk. The applicable Internal Procedures Manual required that, when the assessor considered the project viability to be a medium to high risk, an external viability assessment should be undertaken. At a minimum, this would involve an examination of key financial indicators for the applicant/related entities.

4:3.27 However, the only external viability assessment commissioned by DOTARS in relation to this application was an Applicant Credentials Verification of the applicant company, which was registered on 2 June 2005 with paid capital of three one dollar shares. The 23 June 2005 report of the Verification specifically advised that:

> Financial statements were not available for this company and therefore financial analysis has not been prepared.

4:3.28 DOTARS' assessment advised the then Minister that:

> An external project viability assessment was not carried out as the independent evaluation of economic impact included an examination of project viability. The applicant credentials verification did not indicate any potential issues requiring further investigation.

4:3.29 The July 2004 economic impact evaluation referred to by DOTARS was commissioned by the Mid West Development Commission, which the Regional Partnerships application advised had been leading an initiative to develop the marine services precinct and chaired the consortium that would form the company that was to be the recipient of the Regional Partnerships funding.

4:3.30 The economic impact study did not examine the financial viability of the applicant company (which was not yet formed) or the project itself. There was no examination of the expected returns compared to the expected capital and operating outlays. Instead, the focus of the study was to present projections, based on stated activity assumptions, regarding the employment outcomes and income for local suppliers that could be experienced within the region through the expenditure associated with the operation of the heavy boat lifter. There was no examination of the financial position of the operator of the heavy boat lifter.

4:3.31 Each of these first three examples related to projects assessed in 2004 and 2005. However, the practice of relying upon a State Government viability assessment without the department obtaining a copy of the relevant assessment report has continued. For example, in its May 2006 project assessment recommending that the Ministerial Committee approve $400 000 (plus GST) in Regional Partnerships funds for RP02565 The Visy Cares Hub[484], DOTARS advised the Committee that:

> The Department assessed the applicant viability and found it to be low. This assessment is based on the status and experience of the board overseeing the project, the resources of the organisation backing the project and the credentials of the manager. In addition, the Department of Communities undertook a thorough assessment of the applicant's capacity to manage projects and funds, and has subsequently approved $900 000 for this project.

4:3.32 However, DOTARS had not obtained a copy of the State Government report. In this respect, National Office wanted to include within the project assessment advice to the Committee that the report had been reviewed and the recommendations accepted by DOTARS as appropriate. However, the Victorian South Regional Office advised National Office that:

> We have not sighted the report. We have spoken to the agency and are aware of the processes they undertake in making a grant of this magnitude.

4:3.33 The draft revised Internal Procedures Manual provided to ANAO in June 2007 included no guidance in respect to whether pre-existing external viability assessments undertaken by other parties removed the need for DOTARS to commission its own assessment. It also did not address the approach to be taken where reliance is to be placed on assessments undertaken or commissioned by other parties.

Timing of external viability assessments

4:3.34 There have been two different circumstances in which the proposal to commission an external viability assessment has occurred. This has been either:

- as part of the assessment process for an application, prior to DOTARS making a recommendation to the Ministerial decision-maker as to whether funding for a project should be approved; or
- as a condition of approval for funding—either on DOTARS' recommendation to the Ministerial decision-maker or at the Parliamentary Secretary/Minister's request in approving funding for

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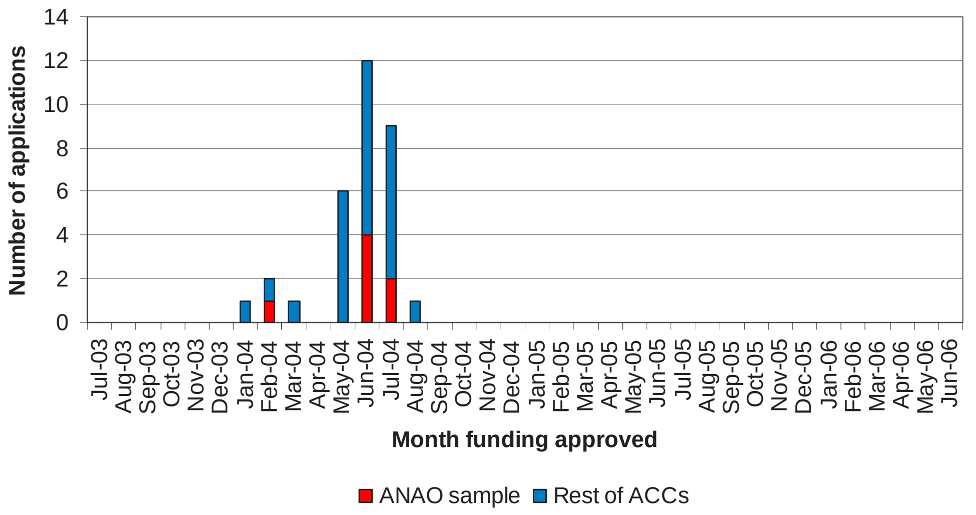
[484] The project involves the refurbishment and fit out of a factory building to establish a one-stop-shop youth support centre.

the application (in situations where the department had not recommended funding approval).

4:3.35 Figure 4:3.1 identifies the occurrence within the Regional Partnerships Programme as a whole of decisions to approve and announce funding for an application subject to the subsequent conduct of a satisfactory external viability assessment of the project and/or the applicant. Of the 32 occurrences between 1 July 2003 and 30 June 2006, the departmental assessment had recommended full or partial funding of 30 applications subject to satisfactory project and/or applicant external viability assessments. On the other two occasions, the department did not recommend funding, but the Ministerial decision-maker disagreed and approved funding subject to a satisfactory independent viability assessment.[485]

Figure 4:3.1

Frequency and timing of decisions to approve funding subject to the subsequent conduct of a satisfactory external viability assessment



Source: ANAO analysis of DOTARS' records.

4:3.36 Figure 4:3.1 shows that the practice of proposing to conduct external viability assessments on recommended applications after funding had been approved and announced only existed in 2004, in the period leading up to the

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[485] The issues that arise in circumstances where Ministerial decision-makers reach a funding decision that is different to that recommended by the department are discussed in Part 2 of this audit report on Application Assessment and Approval Processes.

2004 Federal election. A feature of this period in relation to Regional Partnerships Programme administration was a significant increase in the rate at which projects were approved for funding combined with truncated assessment times for a number of applications. Specifically:

- 36 per cent of projects approved in 2004–05 were approved for funding between 1 July 2004 and 4:16 pm on 31 August 2004. Further, in the five months between 1 April 2004 and 31 August 2004, a total of 336 projects were approved for funding. This was more projects than were approved for the full 2003–04 year (276 projects) and for the full 2005–06 year (312 projects). It was only marginally less than the 393 projects approved over the entirety of 2004–05 year. In this respect, in its report, the Senate Committee noted that:

  > The number of project applications and quantity of grants approved was not uniformly spread throughout the period to December 2004. As shown in Chart 1 [*of the Senate Committee report*], there was a significant increase in grant approvals in the months leading up to the 2004 Federal election. In June, July and August 2004, the three months preceding the announcement of the election, $71.1 million worth of grants were approved. In other words, *over half* (58 per cent) of the total approved for the entire period from the commencement of the program to 31 December 2004 was approved in the three months preceding the election announcement. Of the funding approved in those three months, $22.1 million (31 per cent) was for projects in marginal electorates.[486]

- there was a reduction in the average time taken to assess applications. In this respect, DOTARS' records state that, at a meeting on 16 June 2004, the then Parliamentary Secretary had asked the department to put forward 100 projects for her consideration by close of business Friday 25 June 2004.[487] The average elapsed time in assessment for projects approved in June 2004 was 109 days, and 77 days for projects approved in July 2004. This compares to 111 days for projects approved in December 2003, 144 days for projects approved in May 2004 and 164 days for projects approved in December 2004.

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[486] Senate Committee Report, op. cit., p. 30.

[487] See, for example, the ANAO's case study of RP01101 Beef Australia 2006.

4:3.37 Since the 2004 election period, DOTARS has moved towards a practice in which, particularly in respect to applications that are likely to be recommended for funding approval, external viability assessments are undertaken prior to making any funding recommendation to the Parliamentary Secretary/Minister. This approach is better because the Ministerial decision as to whether to approve funding or not is better informed. It also avoids the potential for grants to be publicly announced, but not eventuate should a subsequent viability assessment prove to be unsatisfactory or for risks identified in any subsequent viability assessment to be inadequately dealt with due to pressure to progress the implementation of an announced grant. In June 2007, DOTARS advised ANAO that it notes that ANAO considers its more recent practice of undertaking assessments prior to making any recommendations to Ministers to be a more sound approach.

4:3.38 DOTARS has also enhanced the documented procedures for the stage of the assessment at which external viability assessments should be obtained. Since February 2005, the Internal Procedures Manual had stated that external viability assessments should be performed towards the end of the assessment process when it had been established that the project satisfied all other criteria. In this respect, the draft revised Internal Procedures Manual provided to ANAO in June 2007 stated that:

> The decision to undertake an external financial viability assessment should be made very early in an assessment and allow time for the assessment to be completed once a final report has been provided by the financial viability assessment provider.

Adhering to the terms of Ministerial funding approvals

4:3.39 Having regard to the role played by Ministers in approving projects for funding, it is important that DOTARS has effective procedures in place to implement relevant conditions placed by Ministers on the approval of Regional Partnerships funding. However, ANAO's analysis revealed that an external viability assessment was not, in fact, undertaken in all cases where it was proposed that such an assessment should be carried out. Specifically, in four of the seven instances in ANAO's sample where an external viability assessment was to be conducted as a condition of Ministerial funding approval (as indicated in Figure 4:3.1), an external viability assessment was not, in fact, carried out.

4:3.40 Despite this, Funding Agreements were entered into with each of those four applicants, with total Commonwealth funding to be provided of nearly

$3 million. This does not sit squarely with the rationale given by DOTARS to the Senate Committee in its inquiry that 'after the fact due diligence' was an appropriate practice because 'actual funding of the project was conditional on a full due diligence assessment'.[488] The four projects were:

- RP00398 Multi-purpose Recreation & Aquatic Centre;
- RP00492 Aeronautics Industry Cluster;
- RP00842 Fairbridge Village Redevelopment Project; and
- RP00908 Lakes Creek Upgrade.

4:3.41 For example, the Internal Procedures Manual applying at the time the application for RP00908 was assessed required that the assessment of applications from the private sector seeking more than $250 000 in Regional Partnerships funding was to include, <u>in every case</u>, external consultants assessing:

- the applicant's financial risk status involving checks of:

> the ownership, structure and financial performance and position of the proponent organisation. It may include examination of credit ratings, company director investigations and quantitative financial analysis. It also rates the relative risk/health of the company – based on financial records over the last 3 years; and

- the project's commercial risk/sustainability by verifying:

> whether the proposal is commercially viable, as substantiated by market research into matters such as product/service positioning, established competitors, identified demand for product/services. It also determines whether the proposal is financially viable, as substantiated by the income and expenditure projections for the project, capacity to meet cash flows, accuracy of costings, capacity to achieve projected sales, and soundness of underlying business assumptions.[489]

4:3.42 Notwithstanding reports that the Lakes Creek plant which was to be re-opened using the Regional Partnerships funds had closed in July 2002 due to unprofitable operations, no such external viability advice was commissioned

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[488] Senate Committee Report, op. cit., p. 111.

[489] DOTARS, Regional Partnerships, *Regional Office and National Office Internal Procedures Manual*, July 2003, pp. 71–73.

by DOTARS to better inform its assessment of the project and advice to the then Parliamentary Secretary, which recommended that the application not be approved for funding due to competitive neutrality and other concerns regarding the anticipated employment outcomes. Instead, DOTARS intended that an external viability assessment would be undertaken post-approval, in the event funding was approved. On 1 July 2004, the then Parliamentary Secretary disagreed with the department and approved funding for the project subject to an independent viability assessment.[490]

4:3.43 Unlike many other projects that have been approved subject to a satisfactory external viability assessment, the funding approval letter from the then Parliamentary Secretary to the applicant made no mention of the condition that had been placed on funding approval. This oversight was compounded by DOTARS not taking any steps to arrange for an external viability assessment to be subsequently undertaken (either before or after entering into the Funding Agreement).

4:3.44 Accordingly, as the Funding Agreement for RP00908 Lakes Creek Upgrade did not accord with the terms of the proposal approved by the then Parliamentary Secretary for the purposes of FMA Regulation 9 (in that it provided for Regional Partnerships payments to occur without an independent viability assessment having been undertaken), FMA Regulation 13 was not complied with by DOTARS.[491] Within ANAO's sample, similar breaches of FMA Regulation 13 where an external viability assessment was required to be conducted but was not occurred in relation to RP00398 Multi-purpose Recreation & Aquatic Centre and RP00492 Aeronautics Industry Cluster.

4:3.45 A further example noted by ANAO related to RP00061 Cobar Primary Health Care Centre. The then Parliamentary Secretary approved Regional Partnerships funding of $303 268 (plus GST) for that project on 19 February 2004 subject to a satisfactory project viability assessment and development approvals being obtained by the applicant, Cobar Shire Council. In recommending the conditional funding approval, DOTARS had advised the then Parliamentary Secretary that:

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[490] The issues that arise in circumstances where Ministerial decision-makers reach a funding decision that is different to that recommended by the department are discussed in Part 2 of this audit report on Application Assessment and Approval Processes.

[491] In this respect, FMA Regulation 13 requires that a person may not enter into a contract, agreement or arrangement under which public money is or may become payable unless a proposal to spend public money for the proposed contract, agreement or arrangement has been approved under FMA Regulation 9 and, if necessary, in accordance with FMA Regulation 10.

> …given the quantum of funds being sought from Regional Partnerships, a full independent project viability assessment should be undertaken prior to any funding being made available for the project.[492]

4:3.46 However, an external viability assessment was not undertaken in respect to this project. A departmental record for file identifies that this decision was taken by a departmental official without seeking the then Parliamentary Secretary's approval of a variation to the terms of the approved spending proposal, as follows:

> On the 9th March after discussing this project with [*a departmental official*] he advised that he didn't consider the independent assessment necessary—in light of the fact this would delay contracting (on a project that already had lengthy delays), the proponent is Council, the original study which the project is derived [*sic*] was from a Commonwealth Health and Aging [*sic*] report and that we had a comprehensive budget it was considered of no value to ascertain a separate report/assessment. In light of this the project was contracted and has commenced.

4:3.47 By way of comparison, on 27 June 2006, ANAO sought advice from DOTARS in relation to the conduct of a post-approval external viability assessment for RP00842 Fairbridge Village Redevelopment Project. On 2 July 2004, the then Parliamentary Secretary had agreed to DOTARS' recommendation that funding of $1 307 000 (plus GST) be approved for that project subject to two conditions, one of which was satisfactory independent financial viability and project sustainability assessments. No such assessments were commissioned by DOTARS. Following ANAO inquiries regarding this omission, initial advice from the Western Australia Regional Office was that this funding condition had been waived. Subsequent advice from National Office to ANAO of 10 August 2006 was that:

> The assessment which Mrs Kelly approved for this project rated both Applicant and Project viability as low risk, however, recommended, on a procedural basis, independent assessments be undertaken. Mrs Kelly agreed to the recommended conditions.
>
> In preparing to undertake the independent assessment, existing independent studies of Fairbridge Village were reviewed by the Department…

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[492] In this respect, the Internal Procedures Manual applicable at the time of this assessment required that an external viability assessment be undertaken in every case for applications seeking $250 000 or more in Regional Partnerships funds.

> The Department also reviewed detailed information provided by Fairbridge Village…
>
> On the basis of reviewing that information a discussion was held with Mrs Kelly's Office and it was agreed that the existing independent studies would satisfy requirements for the independent assessment condition placed on this project by Mrs Kelly. I understand that this was discussed and agreed with Mrs Kelly by her staff. No records of discussions between the Department and Mrs Kelly's Office nor discussion between the Parliamentary Secretary and her staff have been identified.
>
> My understanding of the Minute approved by Mrs Kelly on 22 October 2004: "The independent financial viability and project sustainability assessments are satisfactory" reflects Mrs Kelly's understanding that the "independent … assessments" referred to are those listed above which were considered as part of the assessment and subsequently reviewed.

Recommendation No.13

4:3.48 ANAO *recommends* that, having regard to the value that can be obtained from thorough expert advice regarding relevant financial risks and their effective management, the Department of Transport and Regional Services promote greater attention to the identification and management of viability risks by:

(a) enhancing the recently adopted parameters for deciding when external advice on viability risks relating to particular projects is to be obtained to include explicit consideration of the size and complexity of the overall project, as well as the amount of Regional Partnerships funds being sought; and

(b) where it is proposed to rely on viability assessments undertaken or commissioned by other parties, obtaining a copy of the report of such assessments and developing an understanding of the extent, nature and relevance of the investigations and analysis that underpinned the work.

DOTARS response

4:3.49 Agreed.

Use of external viability assessment results

4:3.50 Of the 19 applications in ANAO's sample where an external viability assessment was conducted, Funding Agreements had been entered into with 15 applicants. The remaining four applications were not approved for funding.

4:3.51 For three of the four not approved applications, the decision not to approve was based either wholly or partly on adverse findings from the external viability assessments. Specifically:

- RP02011 Yambinya Integrated Export Enhancement—although the viability assessment found overall applicant risk to be low, concerns were raised about the volatility of the industry, and the high level of Regional Partnerships Programme funding being sought. It was also considered that the project could potentially subsume some of the existing market share from small operators. DOTARS considered the project to be high risk, and therefore did not recommend the project for Ministerial approval;
- RP01227 GME US Export Listing—the external viability assessment found that insolvency risk for the company was significantly above acceptable levels. DOTARS' advice to the then Parliamentary Secretary was that the applicant was assessed as a high risk and was a private sector enterprise that had been assessed as being in danger of becoming insolvent. It was on this basis that the project was not recommended for approval; and
- RP01053 Limestone Coast Regional Olive Processing—the external viability assessment revealed that insolvency risk for the company was significantly above acceptable levels. DOTARS' advice to the Parliamentary Secretary noted that the external financial assessment indicated that the applicant may not have exhausted other funding options including additional debt, and on that basis DOTARS did not recommend the project for approval.[493]

4:3.52 The remaining project that was not approved (RP01863 Port Kembla Gateway Export and Productivity Development) was not recommended by DOTARS because it was assessed as not representing value for money to the Australian Government, and was assessed as not meeting the outcomes and partnership and support criteria. Although the external viability assessment for the project rated both applicant and project viability risks as medium, DOTARS' advice to the Minister was that both the applicant and the project were assessed as low risk.

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[493] A revised application for this project was later submitted and approved, and a Funding Agreement was entered into with the applicant, on the basis of the same external viability assessment report.

Management of identified risks

4:3.53 A 'satisfactory' external viability assessment can be achieved in one of two ways:

- the assessment identifies no significant findings and makes no recommendations for action by DOTARS; or
- the findings of the assessment are adequately actioned through DOTARS explicitly considering each recommendation directed at addressing or mitigating identified project and applicant risks and:
  - where a decision is made not to take action, the reasons for this decision are documented together with any alternative risk management action that the department had decided to take in order to address the concerns raised by the external assessor;[494] and
  - otherwise, implementing the recommendations of the independent assessment.

4:3.54 In 13 out of the 19 cases (68 per cent) in the ANAO sample where an external viability assessment was conducted, the viability assessment reports made recommendations to DOTARS on the steps that should be taken to mitigate particular risks in relation to the applicant and/or the project. ANAO's examination of the external viability assessment reports in its sample showed that there were two broad types of actions that were recommended by the external consultants in their reports to address specific concerns:

- requesting further information or documentation from, or action by, the applicants (10 projects); and
- including specific clauses in the Funding Agreements with the applicants (three projects).

4:3.55 Ten of the 13 projects in ANAO's sample where the external viability assessment made risk mitigation recommendations were approved for funding. In one instance, DOTARS fully addressed the external viability assessment by actioning the only recommendation that had been made. In respect to a further three projects, DOTARS actioned some, but not all, of the

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[494] For example, this could include resolving with the applicant concerns raised by the external viability assessment, through measures such as obtaining further information for analysis in order to address any scope limitations or adverse findings identified by the independent assessor.

recommendations that were made by the external assessor. For the remaining six approved projects where the external viability assessment made one or more recommendations, none of the recommendations were addressed by the department.

4:3.56 For example, RP01784 Tourist Railway Project—Carriage Restoration involved the provision of $129 800 (plus GST) in Regional Partnerships funds to a non-profit organisation towards the cost of restoring heritage carriages. At the request of DOTARS' National Office, an external viability assessment was commissioned in respect to that application in June 2005.[495] The August 2005 external viability assessment report included a series of findings and suggested risk mitigation strategies. It rated both applicant viability and project viability as representing a medium risk. In this respect, on 29 August 2005, the Southern Queensland Regional Office advised National Office that:

> A number of the suggested risk mitigation strategies, such as obtaining additional years of projections, confirmation of current finances, and provision of quotes, would involve going back to the applicant. This will increase the time of assessment and it is not clear that the Department would be in a better position to then assess risk.
>
> Some of the suggestions, such as monitoring liquidity ratios in future years, monitor tourism levels to the region, require ongoing action beyond the life of the project. I do not understand how these will mitigate risk during the life of the project.
>
> I note that project viability and applicant viability are assessed as medium. I am not in a position to debate this assessment. However, other than extend the number of payments made and close project monitoring, I am not sure what practical risk mitigation strategies can be adopted during the life of a funding agreement.

4:3.57 Also on 29 August 2005, the project assessment was provided to the then Minister, with the department recommending that Regional Partnerships funding be approved. The project assessment advised the then Minister that

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[495] The Southern Queensland Regional Office had already undertaken its assessment of the project with a recommendation that Regional Partnerships funding $129 800 (plus GST) be approved.

the applicant and project viability criteria had been satisfied.[496] Funding was approved on 30 August 2005. However, the then Minister was not informed of the nature and extent of the viability issues that had been raised by the external viability assessment, or that the department did not propose to implement any of the recommendations made by the external assessors, and the reasons for this proposed approach. Such an approach does not promote informed decision-making by Ministers.

Managing risks through the Funding Agreement

4:3.58 Further, in respect to the department not adequately addressing the findings and recommendations of external viability assessment reports, for the three projects in ANAO's sample where the external viability assessment recommended that specific clauses be included in the relevant Funding Agreement, the clauses that were included were not always adhered to or given proper effect. Specifically:

- in respect to RP00622 Jarrahdale Heritage Park, to address one recommendation of the external viability assessment, the Funding Agreement included a list of specified milestones against which payments would be made to the Shire of Serpentine-Jarrahdale. The first payment was to be made on signing of the Funding Agreement, with subsequent payments being subject to the prior satisfaction of the pre-conditions that DOTARS had been provided with satisfactory confirmation of all cost assumptions associated with the milestones covered in the payments and satisfactory confirmation that all other funds linked to the milestones covered by each payment had been or would shortly be received. However, DOTARS did not enforce

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[496] The then Minister was also advised that the external viability assessment report had identified a number of risks associated with the project, particularly relating to patronage, fire restrictions and competitive neutrality. The then Minister was advised that the department (which relied on information provided by the applicant) was satisfied in relation to these issues. The Minister was not advised of issues identified in the external viability assessment in relation to concerns raised about the extent and quality of financial data (only three years of projections had been provided for analysis, with issues identified in relation to the veracity and consistency of the projections); the absence of quotes, estimates or assumptions used to support both the project capital costs and ongoing operating costs; and that documentation supporting the financial and in-kind support from Warwick Shire Council had not been obtained.

adherence to these pre-conditions before making payments to the Shire[497];

- in relation to RP00769 Redevelopment of Geraldton Surf Life Saving Club, to address some of the recommendations of the external viability assessment, the Funding Agreement included the following pre-conditions to the first payment being made: (a) all co-funding be confirmed; and (b) contracts be entered into to ensure that the total cost of the project did not exceed the budget as supplied in Regional Partnerships application. DOTARS records do not indicate that either of these pre-conditions was satisfied before the first payment was made by DOTARS and, as outlined in the ANAO case study of this project, it is now clear that neither pre-condition was met; and
- for RP02295 International Coal Centre, to address one of the recommendations of the external viability assessment, the Funding Agreement included a payment pre-condition that the first milestone, as described in the Schedule to the Agreement, be completed before the first payment was made. The applicant met the milestone before the first payment was made. However, subsequent payments that were intended to be linked to later milestones, thereby giving proper effect to the external viability assessment's recommendation, were not actually tied to those milestones in the Funding Agreement.

4:3.59 Ineffective management of such issues was also apparent in relation to some of the large projects that received substantial amounts of Regional Partnerships funding after being the subject of an election commitment during the 2004 Federal election. For example, on 31 May 2005, when seeking approval of the funding by the then Minister for Transport and Regional Services (which was provided on 15 June 2005) for an additional $2.5 million in funding towards the Bert Hinkler Hall of Aviation project, DOTARS advised the Minister that an external viability assessment conducted on the project was constrained by gaps in evidence to support claims and projections made by the applicant and by the assessor's inability to conduct its own audit or review 'given time and financial constraints'. DOTARS further advised that the

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[497] On 19 September 2007, the Ministerial Committee agreed to a departmental recommendation that it agree to reducing the scope of the project to the work already completed, obtaining a full acquittal of Regional Partnerships funds for the components completed to date and terminating the Funding Agreement. The Shire funding recipient was to be advised of the decision by DOTARS and invited to submit an application for the remaining activities.

viability report recommended that certain considerations be addressed, additional to the standard requirements of a Funding Agreement. ANAO's examination of the external viability assessment and the Funding Agreement subsequently executed by DOTARS with the funding recipient identified that:

- the advice provided to the then Minister by DOTARS did not adequately identify the context in which identified recommendations had been made and, therefore, did not properly reflect the nature of viability risk that had been raised by the external assessment; and
- the risk-mitigation strategies that the departmental response to two of the three recommendations had advised the Minister would be included in the Funding Agreement were not included the Funding Agreement subsequently executed.

Projects that are not recommended, but which are approved

4:3.60 In a risk management context, attention to the findings and recommendations of an external viability assessment are particularly important in circumstances where the Ministerial decision-maker has approved funding for a project that the department did not recommended due, in whole or part, to viability concerns. However, a number of projects in the audit sample examined by ANAO show that DOTARS has applied reduced, not increased, attention to the findings and recommendations of an external viability assessment for not recommended projects that have nevertheless been approved for funding.

4:3.61 For example, $375 000 (plus GST) in Regional Partnerships funding was approved for RP01364 Country Homes and Cabins. Funding was initially not approved, but following representations from the local Federal Member, this decision was later reversed. In the four months between the original decision to not approve funding and the later decision to approve funding, an external viability assessment was undertaken which concluded that the applicant represented a high viability risk, rather than the low viability risk that had been previously advised to the then Parliamentary Secretary by DOTARS. Notwithstanding this, a revised project assessment was not provided to the then Parliamentary Secretary, so as to draw attention to this issue. Further, no steps were taken by DOTARS when drafting the Funding Agreement to address the risks identified by the external viability assessment. The first Regional Partnerships payment of $250 000 (plus GST), representing 67 per cent of approved funding, was made by DOTARS in November 2005. As of

May 2007, DOTARS had yet to receive any financial acquittal in relation to those funds.

4:3.62 Similarly, RP01578 Aerox Odour Control Filters for Grape Marc Separator/Dryer was not initially recommended for funding. The second project assessment (which recommended funding be approved) included consideration of a State Government commissioned viability report but the advice provided to the then Parliamentary Secretary made no reference to the poor solvency, liquidity and profitability position identified by the viability report in respect to the of the applicant. The absence of this advice was important given that the then Parliamentary Secretary had indicated that he was inclined to approve funding for the project, but had requested further information on the viability of the applicant and project. In addition, no steps were taken in the drafting and management of the Funding Agreement to address these risks. As noted, the funding recipient was declared to be insolvent one month after the final payment of Regional Partnerships funds was made in October 2005.

Revised internal procedures and training

4:3.63 In June 2007, DOTARS advised ANAO that it had incorporated into the revised Internal Procedures Manual and training for staff on assessing applications guidance on how to achieve a satisfactory external viability assessment report. Specifically, the draft revised Internal Procedures Manual provided by DOTARS to ANAO in June 2007 required that assessors incorporate the findings and recommendations of the external viability assessment report into the overall project assessment under the applicant viability, project viability and competitive advantage assessment criteria as appropriate. The revised Manual further requires that assessors:

- document that there are no significant findings and no recommendations for action; or
- action the findings of the assessment through consideration of each recommendation, addressing or mitigating identified project and applicant risks; or
- where a decision is made not to take action, document the reasons for this decision together with any alternative risk mitigation action that the department has decided will address residual risk and other concerns raised by the external assessor and details of any

recommendations adopted from the external viability assessment during assessment of the application.

4:3.64 In addition, as part of the broader adoption of risk management principles into project assessments, assessors are required to:

- examine each risk identified by an external viability assessment;
- assess the potential impact of each risk on the satisfactory implementation of the project;
- determine the overall level of risk for the project and decide on the basis of the risk assessment whether or not to recommend that the Ministerial Committee approve Regional Partnerships funding; and
- identify appropriate risk management strategies.

4:3.65 This approach is to be reinforced by the implementation of a declaration by officials delegated to execute Funding Agreements that, prior to signing the Agreement, they have verified that all relevant conditions identified either by the external viability assessment report or by the Ministerial Committee in its approval of the project have been incorporated into the Funding Agreement unless there is documentary evidence that the requirement has already been met.

4:4 Funding For-Profit Organisations

This chapter provides information on applications from for-profit organisations in ANAO's sample. It analyses DOTARS' approach to assessing viability risks for such projects having regard to the particular risks presented by these projects in the context of the Regional Partnerships Programme.

Background

4:4.1 In its July 2002 report, the Regional Programmes Reform Taskforce noted that, at that time, seven out of 10 DOTARS regional programmes provided direct funding to private sector projects. In this respect, the Taskforce reported that, in the 2001 calendar year, approximately 51 per cent of regional programme funds were allocated to private sector projects, totalling some $62 million of the $123 million programme funding.

4:4.2 The Taskforce recommended that the existing regional programmes be amalgamated into a single, integrated programme, which ultimately became known as Regional Partnerships. The Taskforce also recommended that, subject to an agreed risk management approach, the range of funding options available to the private sector under the proposed combined regional programme be enhanced to include funding under the strengthening growth and opportunities and structural adjustment for communities programme objectives; and through a proposed strategic opportunities fund (which became known as the Strategic Opportunities Notional Allocation (SONA)).[498] The Taskforce considered that the following factors should be taken into account in considering commercially-based projects (from the private and other sectors):

- original or innovative responses to a locality's specific needs and conditions;
- improvement to a region's overall competitive advantage;
- no undue competitive advantage to the applicant;
- long term sustainable benefits to the local community;
- demonstrated community support;

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[498] The SONA procedures are examined in Part 2 of this audit report on Application Assessment and Approval Processes.

- no other appropriate funding sources, government or private. Account should be taken of claims that access to private sector funding from banks and other sources can be more difficult for regionally based enterprises than for urban ones;
- for private sector proponents, a cash contribution of at least 50 per cent of project costs, which can not include other government grants, to evidence the commitment of the proponent to the proposal, and the capacity to undertake the task.

4:4.3 Accordingly, at the commencement of the Regional Partnerships Programme, Ministers agreed to Guidelines that explicitly stated that private sector entities were eligible to apply for Regional Partnerships funding, except where they were requesting funding for planning, studies or research. The same guidance has been included in each version of the Programme Guidelines, up to and including the current version. In June 2007, DOTARS advised ANAO that:

> In deciding to fund regional business initiatives, the Ministerial Committee also chooses to give consideration to broader community benefits which could be delivered by the project. As noted in the Regional Partnerships Guidelines, a number of objectives and priorities underpin this provision of financial assistance by the Government, which aim to assist regional communities to become self reliant. These include:
>
> - Stimulating growth in regions by providing more opportunities for economic and social participation;
> - Improving access to services in a cost effective and sustainable way;
> - Supporting planning that assists communities to identify and explore opportunities and develop strategies that result in direct action;
> - Helping communities make structural adjustments in regions affected by major economic, social or environmental change.

4:4.4 In this context, at the 2007 ACC Conference, the current Minister for Transport and Regional Services stated that:

> A commercial project will need to demonstrate:
>
> - Community benefits,
> - That it will not have a material impact on any other business,
> - That it will be a viable, ongoing concern, and
> - That it couldn't be fully funded from some other source—either a bank loan, or through other more appropriate grant programmes.

> Generally, this means that private sector projects in capital cities or large centres where a mature market operates are less likely to succeed. But I am very keen to support job creating projects in rural areas that could not proceed without Regional Partnership funding.[499]

Regional Partnerships funding of for-profit organisations

4:4.5 Between 1 July 2003 and 30 June 2006, Ministerial decision-makers made funding decisions in respect to 1 370 projects.[500] Of those, 162 (12 per cent) related to for-profit organisations, with 100 projects being approved (62 per cent) for Regional Partnerships funding totalling $39.56 million. The approved projects had a total project cash value of $275.54 million, meaning the Regional Partnerships Programme was contributing 14 per cent of total project cash costs.

4:4.6 ANAO's sample included 28 applications for funding from for-profit organisations on which the Ministerial decision-maker had made a funding decision by the completion of audit fieldwork. Of those, 19 were approved for funding, representing an approval rate of 68 per cent.[501] As Table 4:4.1 illustrates, the applications from for-profit organisations were concentrated in only a few of the 11 ACCs included in the ANAO sample, as follows:

- three of the 11 ACCs (Mid West Gascoyne, Central Queensland and Limestone Coast) accounted for 67 per cent of applications in ANAO's sample that were received from for-profit organisations. Those applications represented 55 per cent of the total amount of funding applied for by for-profit organisations in ANAO's sample; and
- there were no for-profit projects funded between 1 July 2003 and 30 June 2006 in five of the ACCs examined. No applications had been submitted by for-profit organisations located in three of the ACCs, and

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[499] The Hon Mark Vaile MP, Minister for Transport and Regional Services, *2007 Area Consultative Committees Conference*, op. cit.

[500] This excludes two decisions to contribute Regional Partnerships funds to a project or projects administered by another department and a further seven applications which were placed 'on hold' by the relevant Ministerial decision-maker pending the provision of further information or further work with the applicant by DOTARS. Each of those applications was not subsequently funded but a formal decision by the Minister to not approve funding or a formal decision by the applicant to withdraw the application was not documented. One of those applications was from a for-profit applicant. This also excludes funding decisions made in respect to election commitments funded through Regional Partnerships, grants that related to contributions to programmes administered through other departments, and projects approved under previous legacy programmes.

[501] This rate which is similar to the approval rate for all applications in ANAO's sample (70 per cent).

only one for-profit organisation located in each of the other two ACCs had submitted a Regional Partnerships application.

Table 4:4.1

Applications from for-profit organisations in ACCs in the ANAO sample: 1 July 2003 to 30 June 2006

ACC	Applications Submitted		Funding Agreements	
	Number	Value $	Number	Value $
Adelaide Metropolitan	Nil	Nil	Nil	Nil
Central Murray	1	500 000	Nil	Nil
Central Queensland	7	3 759 716	6	3 629 716
Illawarra	2	1 076 250	1	250 000
Kimberley	2	2 740 000	1	2 500 000
Melbourne's West	Nil	Nil	Nil	Nil
Mid West Gascoyne	5	1 650 777	3	1 360 777
Peel	1	524 805	Nil	Nil
Limestone Coast	7	1 467 254	5	1 111 706
Southern Inland Queensland	3	763 139	3	763 139
Victoria Central Highlands	Nil	Nil	Nil	Nil
Total	**28**	**12 481 941**	**19**	**9 615 338**

Source: ANAO analysis of DOTARS' records.

4:4.7 In financial terms, for-profit organisations usually sought larger grants than other types of applicants in ANAO's sample. While applications from for-profit organisations represented some 10 per cent of the applications in ANAO's sample, those organisations applied for more than 24 per cent of the total amount applied for by all entities in the sample (see Figure 4:4.1). The average amount of Regional Partnerships funding applied for by for-profit organisations was $445 784[502], compared to an average application of $146 187 by non-profit organisations and $175 244 by LGAs.

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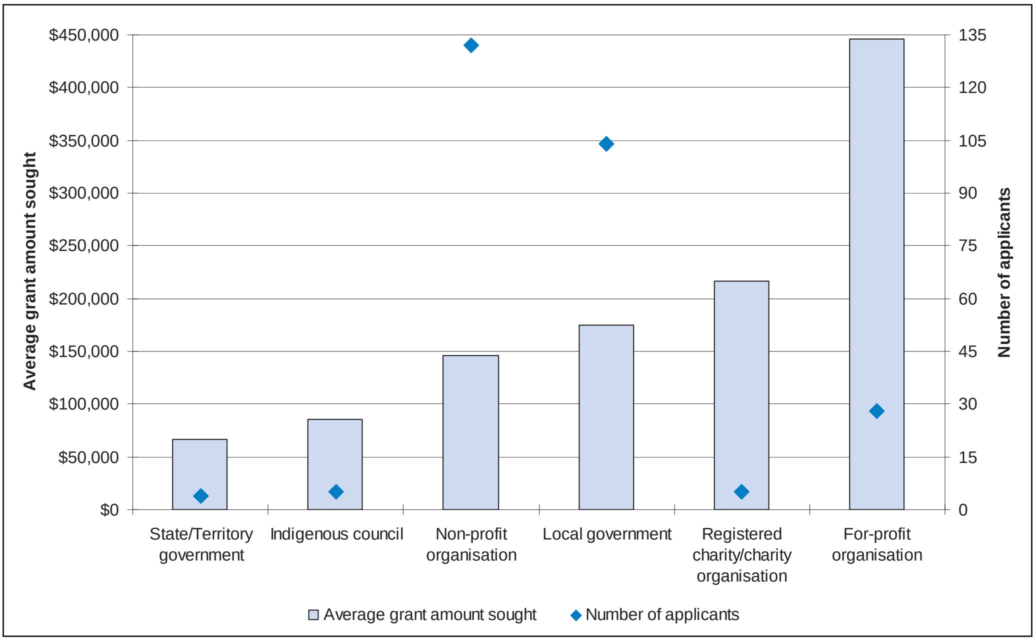
[502] This amount is significantly higher than the average amount applied for by all other types of applicants ($157 189) and by the applicant category with the next highest average (charities with $216 146).

Figure 4:4.1

Number of applications and average value of amounts sought by applicant type



Source: ANAO analysis of applications submitted in sample ACCs between 1 July 2003 and 30 June 2006.

4:4.8 As well as applying for larger amounts of Regional Partnerships funding than other types of applicants, for-profit organisations are distinguished by the fact that their overall projects are, in general, significantly larger than those proposed by other types of applicants. The average total project cash cost[503] of projects submitted for funding by for-profit organisations in ANAO's sample (as advised in project assessments provided to the Ministerial decision-maker by DOTARS) was $1 866 598, compared to an average total project cash cost of $712 730 across all projects in ANAO's sample. The category of applicants with the next highest average project cash

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[503] This analysis has focussed on the proposed cash costs of submitted projects because ANAO's examination of applications has found the valuation and assessment of in-kind contributions to projects to be inadequate and inconsistent. Further, there are significant inconsistencies as to whether in-kind contributions proposed in an application and taken into account in the departmental assessment are subsequently clearly identified and valued in the resulting Funding Agreement as a required contribution. There are also significant deficiencies in the extent to which DOTARS monitors whether any such contributions are actually provided. This issue is discussed further in Part 3 of this audit report relating to Partnerships and Support.

cost was LGAs with $839 968 (more than one million dollars on average less than the value of projects submitted by for-profit organisations).

4:4.9 Whilst the grants approved for for-profit organisations were for comparatively large amounts of public money, on average the Regional Partnerships funding represented a smaller proportion of the overall project cash costs than was the case with other types of applicants in ANAO's sample. On average, the amount of Regional Partnerships funds applied for by for-profit organisations represented 24 per cent of the total project cash cost. This was the lowest level of partner funding sought from the Regional Partnerships Programme across all types of applicants in the sample.

Project status

4:4.10 At the completion of ANAO's fieldwork, Funding Agreements had been entered into with each of the 19 approved projects from for-profit organisations in ANAO's sample. In total, those Agreements involved the payment of more than $9.6 million in public money. The terms of the Funding Agreements required the funding recipients and other partners (where applicable) to contribute more than $23.5 million in cash to the funded projects. Accordingly, the total cash value of the approved projects submitted by for-profit organisations in ANAO's sample was more than $33.1 million.

4:4.11 Of the 19 approved projects, 16 were contracted to have been completed on or before 31 December 2006. By that date, 10 of the projects had actually been completed and acquitted to DOTARS' satisfaction.[504]

4:4.12 In his comments to the 2007 ACC Conference, the current Minister for Transport and Regional Services indicated that, going forward, he would like to see commercial projects becoming an increasing focus of the Programme, stating:

> So we need to be careful, but I would like to see more commercially oriented proposals brought forward. I would like to see more projects submitted where the expansion of businesses would benefit local communities.
>
> I stress that we are seeking community benefits from the projects we fund. I want to see private sector projects that benefit local communities, create jobs in

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[504] In one instance (RP00833 Christmas Island Mobile Upgrade Project involving $2 500 000 plus GST in Regional Partnerships funding), an acquittal was obtained in July 2006 after ANAO sought advice (in May 2006) from the department concerning the absence of progress reports and a project acquittal. The July 2006 audited acquittal for the project stated that it had actually been completed in February 2005.

> small towns or in areas of high unemployment, and support innovative new industries.[505]

4:4.13 Accordingly, issues relating to the identification and management of the particular risks associated with projects submitted for funding by for-profit applicants are likely to become of increasing importance to both the effectiveness, and complexity, of DOTARS' administration of the Programme. In this respect, in September 2007, the current Minister announced that all applications from private businesses will be channelled into their own funding stream and that applications for funding under this stream will be considered through two funding rounds a year. In announcing this change, the Minister said:

> We are restricting the timing of these applications so we can consider them more thoroughly and undertake stronger financial viability assessments.

Identifying and appropriately scrutinising the actual applicant and its corporate group

4:4.14 The Regional Partnerships application form advises that certain additional information will be required from private sector entities seeking more than $250 000 in Regional Partnerships funding. This additional information includes:

> An outline of the organisation's/sponsor's ownership and management structure, including details of partners and/or directors. Include their full name, date of birth, current residential address and where possible, driver's licence number.

4:4.15 Where incorporated entities apply for Regional Partnerships funding, appropriate scrutiny of relevant entities in the corporate group is an important due diligence step. This has been recognised, at least in part, in DOTARS' assessment of some projects involving corporate entities. For example, in respect to RP01459 Sakai/CIC Business and Export Development project, involving an application for funding from the manufacturing arm of a majority Japanese-owned corporate group, DOTARS sought written confirmation that the applicant company's Japanese and Australian parent companies agreed to the applicant using its accumulated profits to fund its contribution to the project.

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[505] The Hon Mark Vaile MP, Minister for Transport and Regional Services, *2007 Area Consultative Committees Conference*, op cit.

4:4.16 However, ANAO's case study of RP00908 Lakes Creek Upgrade project, involving Regional Partnerships funding of $600 000 for the last stage of the re-opening of an abattoir, highlighted that DOTARS' due diligence in respect to that application was inadequate in respect to:

- identifying the corporate entity that owned the assets that were the subject of the Regional Partnerships application for funding; and
- obtaining the information in relation to that entity and other relevant entities in the corporate group necessary to appropriately inform its assessment.

4:4.17 In this respect, having regard to information publicly available through the Australian Securities and Investments Commission (ASIC) at the time the application was received, ANAO found that:

- the Lakes Creek plant had been previously reported as being operated by Consolidated Meat Group Pty Limited. The Regional Partnerships application received by DOTARS on 25 March 2004 included the ABN of that entity, but this was not the name of the applicant entity nominated on the application form. DOTARS was provided with a register of directors for Consolidated Meat Group Pty Limited, but otherwise did not obtain any information with respect to this legal entity;
- the entity identified as the legal applicant in the application received by DOTARS on 25 March 2004 was 'Teys Bros (Lakes Creek)'. No entity of this name has been registered with ASIC. On 15 April 2004, DOTARS received unaudited financial information and financial forecasts in relation to an entity identified as 'Consolidated Meat Group Pty Ltd Trading As Teys Bros (Lakes Creek)'. The Teys Bros corporate group included an entity by the name Teys Bros (Rockhampton) Pty Ltd (which changed its name to Teys Bros (Central Queensland) Pty Ltd during the time the Regional Partnerships application was being assessed), but DOTARS did not obtain any information in relation to that particular entity;
- at the time the application was assessed, Teys Bros (Holdings) Pty Ltd, a large proprietary company, had most recently reported strong profits, most of which were declared and paid as a dividend to shareholders. This was the entity that DOTARS advised the then Parliamentary Secretary was the applicant, and with whom the Funding Agreement

was signed. However, DOTARS obtained no financial or other corporate information in relation to this entity, its shareholdings or its parent entities; and

- due to a recent merger, at the time Regional Partnerships funding was applied for Teys Bros (Holdings) Pty Ltd had two parent entities. The majority shareholder was Consolidated Pastoral Company Pty Ltd, a large proprietary company engaged in pastoral activities. The remaining 49 per cent of shares were held by Teys Investments Pty Ltd. DOTARS did not obtain or analyse any information in relation to either parent entity.

4:4.18 Similarly, ANAO's case study of RP01364 Country Homes and Cabins, outlined that DOTARS advised the then Parliamentary Secretary that the applicant represented a low viability risk, notwithstanding that no information had been obtained concerning the financial position and performance of the entity that had submitted the Regional Partnerships application for funding. Instead, some limited information was obtained with respect to a related entity that was nominated as being a provider of funding to the entity that was to undertake the project.

4:4.19 A further example of DOTARS inadequately identifying and scrutinising the proposed grant recipient related to RP01319 A2 Milk Processing, which was examined by the Senate Committee in its inquiry into the Regional Partnerships Programme.

4:4.20 That project involved a proposal to form a new company to develop and construct an A2 milk processing plant in Milla Milla in the Atherton Tablelands in Far North Queensland. The company was to be an equal partnership between Mungalli Creek Dairy, A2 Dairy Marketers Pty Ltd and local farmers supplying A2 milk to the company. The project would also involve the provision of funds to farmers to have their cows DNA tested to identify those suitable for producing A2 milk.

4:4.21 A Regional Partnerships application seeking funding of $1 200 000 (plus GST) was received by DOTARS on 9 July 2004.[506] DOTARS' assessment, provided to the then Parliamentary Secretary on 27 August 2004, assessed the application as satisfying the outcomes, applicant viability and project viability

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[506] Senate Committee Report, op. cit., p. 104. The application was submitted into TRAX (the database used by DOTARS to receive, assess and manage applications) on 17 August 2004.

criteria, but only partially satisfying the partnerships and support criterion. This was due to the low partner cash contributions of 17 per cent toward a commercial venture (which the assessment advised would normally be expected to be between 60 and 70 per cent of the cash cost of this nature of project) and the department's assessment that the bulk of the proposed in-kind contributions could not be considered genuine in-kind for this particular project. DOTARS recommended partial funding of $478 500 (plus GST) subject to:

- confirmation of additional cash support from the applicant and partners;
- confirmation of transferability of Development Approval from another site; and
- satisfactory resolution of the company structure between Mungalli Creek Dairy, the applicant and individual dairy farmers.

4:4.22 On 29 August 2004, the then Parliamentary Secretary approved Regional Partnerships funding of $1 153 000 (plus GST). This approval was given on the basis that the Parliamentary Secretary disagreed with the department's assessment regarding the proposed in-kind contributions and did not consider that legitimate competitive neutrality concerns arose in the circumstances of the potential competitor of the proposed plant.[507]

4:4.23 In approving funding, the Parliamentary Secretary advised DOTARS that:

> I note that the application satisfies the Project Assessment in terms of Outcomes, Applicant Viability and Support…

4:4.24 In this respect, DOTARS' assessment identified the applicant as being A2 Dairy Marketers Pty Ltd, a company registered on 12 November 2003 with $2 start-up capital, which commenced trading on 1 May 2004. Despite the start-up nature of the company and its product, DOTARS' 27 August 2004 assessment assessed the company as satisfying the applicant viability criterion, as follows:

> The applicant is assessed as a low risk.

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[507] The issues that arise in circumstances where Ministerial decision-makers reach a funding decision that is different to that recommended by the department are discussed in Part 2 of this audit report on Application Assessment and Approval Processes.

> Applicant appears to be a well structured company capable of delivering against the objectives of the project. The applicant is currently promoting and delivering A2 milk opportunities through a number of other regions and appears to manage the process well.
>
> No risk management strategies, beyond normal departmental work practices, will be required.
>
> The applicant satisfies this criterion.

4:4.25 However, despite DOTARS' reference to A2 Dairy Marketers Pty Ltd as 'the applicant', that company was not the intended recipient of the Regional Partnerships funding. Instead, the actual recipient of the funding would be the yet-to-be-formed joint venture company. This was recognised by the then Parliamentary Secretary in the context of disagreeing with the department's characterisation of the proposed in-kind contributions by Mungalli Creek Dairy and A2 Dairy Marketing Pty Ltd, noting that:

> It should be recognised that the funding from the Australian Government is not directed to either Mungalli Creek Dairy or A2 Milk.

4:4.26 In this respect, DOTARS' assessment advised the then Parliamentary Secretary that:

> To date no formal agreement has been made between Mungalli Creek Dairy, A2 milk and prospective milk suppliers (farmers). The applicant advises that once funding approval is granted its team of lawyers will finalise the in-principle company structure between the parties.

4:4.27 Accordingly, despite DOTARS advising the then Parliamentary Secretary that the project involved a low applicant risk, the actual intended grant recipient was not in existence at the time of the department's assessment and agreement regarding company structure had not been reached between the parties.

4:4.28 Further, the Senate Committee identified a number of shortcomings in respect to DOTARS' due diligence in respect to A2 Dairy Marketers Pty Ltd, which the Committee concluded had failed to identify the company's existing financial and other difficulties.[508]

4:4.29 One of those issues related to legal action being taken against the company by Queensland Health, which had met with A2 Dairy Marketers Pty

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[508] Senate Committee Report, op. cit., pp. 109–112.

Ltd in late May 2004 and questioned the corporation's use of health claims in its A2 milk advertising campaign.[509] Queensland Health subsequently commenced proceedings against the company in the Brisbane Supreme Court for breach of the *Food Act 1981*. The Committee was advised by DOTARS that it had become aware of the legal action on 26 August 2004.[510] However, it is apparent that DOTARS did not have a sound understanding of the nature of the legal action or its status at the time of providing its assessment and funding recommendation to the then Parliamentary Secretary, which advised that:

> The Australian Competition and Consumer Commission (ACCC) has been involved in questioning some of the advertising and claims made on behalf of A2. This matter is now satisfactorily resolved as evidenced by email correspondence forwarded to the Department.

4:4.30 The approved funding for this project was announced on 8 September 2004. On 24 September 2004, DOTARS advised A2 Dairy Marketers Pty Ltd of the information that would be required to allow the finalisation of a Funding Agreement, including formation of the company with which the Agreement would be made; finalisation of Development Approvals; and the provision of information to enable a viability assessment to be undertaken in relation to the new company (this latter requirement was not one of the funding conditions recommended by the department or advised to the company by the then Parliamentary Secretary). On 30 September 2004, DOTARS advised the then Deputy Prime Minister and Minister for Transport and Regional Services that:

> There was a court hearing in the Queensland Magistrates Court on 29 September 2004 relating to advertising claims made by A2 Dairy Marketers Pty Ltd about the health properties of A2 milk. The court ruled that A2 Dairy Marketers Pty Ltd breached the Food Act 1981 and was fined $15 000 for making misleading health claims about A2 milk…
>
> The Department has contacted A2 Dairy Marketers since yesterday's ruling. They are confident of being able to pay the fine and do not see the ruling as impacting on their future sales as they had already altered their advertising to meet Queensland Health Department requirements under the Act. They also advised they were confident of meeting the conditions…required to finalise a funding agreement.

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[509] ibid., p. 99.

[510] ibid., p. 100.

4:4.31 On 30 September 2004, the Chief of Staff to the then Minister annotated the Minute as having been discussed with the Minister, and advised DOTARS that:

> Given the issues that have arisen since the original approval was given, the DPM [*Deputy Prime Minister*] has asked that this matter not be progressed and that it be resubmitted after the election on 9 October for his consideration.

4:4.32 A2 Dairy Marketers Pty Ltd went into voluntary administration on 4 October 2004.

Utilising publicly available information

4:4.33 In the context of understanding companies and their operations, ASIC maintains a number of registers that provide, free of charge, information about companies and people it registers or licences. For example, a free search of ASIC's National Names Index will provide a company's registration number, status, town or suburb of registered office, review date and list of documents lodged with ASIC. In addition, it is possible to purchase further information about a company from ASIC's public registers. This includes relational organisational information (such as on the roles and shares a selected company holds in respect of other organisations) and current and historical organisation information. In this latter respect, documents lodged with ASIC are also available for purchase, including copies of financial reports, annual reports and changes made to company details.

4:4.34 Notwithstanding the potential value of this information to DOTARS in assessing applications for funding submitted by companies, the only reference in the versions of the Internal Procedures Manual in place in the period examined by ANAO to the data available from ASIC, and its potential value to the department's due diligence inquiries, was that:

- ASIC data can be used to confirm whether a valid ABN/ACN has been provided;
- an applicant credentials check undertaken as part of an external viability assessment will identify whether there is any adverse information on the public record about the proponent and key people associated with the proponent including the corporate status of the proponent, whether or not annual reports have been submitted or whether a director has been bankrupted or ASIC-reprimanded; and
- the costs associated with an applicant credentials verification may include ASIC document charges, but that such documents:

> are required only when director's checks show adverse information which requires further clarification to provide further background as to the adverse information and to establish the level of severity of that adverse information.

4:4.35 In June 2007, DOTARS advised ANAO that the revised Internal Procedures Manual contains due diligence measures that address the checking of information on the status and identity of applicants through the ASIC website, and includes a link to the ASIC website.

Recommendation No.14

4:4.36 ANAO *recommends* that, where incorporated entities apply for Regional Partnerships funding, the Department of Transport and Regional Services better inform its assessment of such applications by:

(a) amending the application procedures to require these entities to provide, with their application for funding, financial and other information on the corporate entity that is undertaking the project, and any relevant related entities in the corporate group; and

(b) using the information provided by the applicant, together with publicly available information and/or the results of any external viability assessments, to prepare an analysis of the applicant entity and its corporate group in order to better inform an assessment of the value for money that would be achieved through the provision of public money to the applicant.

DOTARS response

4:4.37 Agree with part (a) and agree with qualification to part (b) as this is a policy matter and would therefore be subject to agreement by the Government and the Ministerial Committee.

Scrutinising corporate financing arrangements

4:4.38 In October 2005, DOTARS provided advice to the then Minister for Transport and Regional Services on options to improve the Regional Partnerships Programme. In respect to commercial projects, DOTARS advised the then Minister that:

> Commercial projects continue to pose the bigger exposure for the Government. The Government seeks with the programme, to 'strengthen growth and opportunities by strengthening regional competitive strengths and advantages through job creation, business growth and new opportunities'. In many

> communities, local businesses are the main employers so it is logical for communities to put forward projects which support the growth of a local business.
>
> DOTARS is not well placed, however, to determine whether the public benefit provided by increased jobs (which may be short-term) exceeds the private benefit to the business which result from a grant to improve its capital base. We cannot satisfactorily test claims that commercial finance is priced at a level beyond normal commercial risk and the limited checks we make to determine competitive neutrality generally cannot identify cost-effective providers outside the region or the extent to which a grant to a business reduces the chances of competition from emerging businesses.

4:4.39 In this context, government grants are a valuable source of funding to for-profit organisations. This is because obtaining grant funding increases after tax cash flows to the funding recipient, but without the recipient being required to pay a return on those funds.[511] The ANAO Administration of Grants Better Practice Guide comments as follows on this issue:

> grant administrators should consider whether the mix of public or private benefits resulting from the funding is appropriate. An assessment of the private and public benefit as part of the appraisal of applications will minimise the risks of inappropriate or unintended outcomes.[512]
>
> …Effective risk analysis helps to avoid the risk of wasting funds which can arise where…too much money is given to valid projects. This can arise when there has been no proper financial appraisal of the applicant's needs. Not all applications may need to be examined in detail. The cost of the examination may exceed the value of the grant itself or the benefit to be achieved if the value of the proposed grant is small. In these circumstances, funding organisations need to set an appropriate cost threshold above which full financial appraisals must be carried out. Such thresholds should be consistent between related programs.[513]

4:4.40 As outlined above, the average grant applied for by the 28 for-profit applicants in ANAO's sample was significantly higher than the average amount applied for by all other types of applicants. In addition, the overall size

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[511] By obtaining Regional Partnerships funding, the recipient is able to reduce its own contribution to the project (that would have been funded either by equity or through debt) thereby reducing its outgoings, with the additional benefit of incoming cash flows (with no required rate of return) at an early stage of the project.

[512] ANAO Better Practice Guide–Administration of Grants, op. cit., paragraph 2.17, p. 9.

[513] ibid., paragraph 3.12, p. 43.

of projects submitted by for-profit organisations was, on average, significantly higher than projects submitted by other types of applicants.

4:4.41 Further, as recognised in DOTARS' Internal Procedures Manual (September 2005), expectations of for-profit organisations in applying for and administering Regional Partnerships funding can differ markedly from those of other types of applicants.[514]

4:4.42 In this context, consistent with the ANAO Better Practice Guide, it is appropriate that applications for funding from for-profit organisations be examined in detail, including the application of appropriate financial evaluation focused on assessing the merits of recommending the application for funding. In particular, the Commonwealth does not obtain value for money (and risks wasting funds) where public money is provided for commercial projects that:

- would not be viable, even with Regional Partnerships funding; or
- would be viable, and are likely to proceed, regardless of whether Regional Partnerships funding was provided.[515]

4:4.43 Accordingly, it is important that Regional Partnerships funds only be directed to those projects from for-profit organisations that will be viable, but only with the benefit of Regional Partnerships grant funds. In considering what value will be added by the awarding of a grant, the ANAO Better Practice Guide advocates:

- the analysis of income and expenditure estimates, examination of the implications of changes in project estimates and assumptions and other forms of financial analysis; and
- a careful assessment of the effect on the project if funding was not awarded.[516]

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[514] DOTARS, *Regional Partnerships Internal Procedures Manual*, September 2005, Section 2.3.6, p. 25.

[515] This was recognised, for example, in DOTARS' assessment of RP01521 Multi Contract Juice and Milk Packing which did not recommend funding on the basis that: 'while the project is considered to be viable, due to the surety of the market for the new processes and as preliminary work to extend the factory to house the new equipment has already commenced, there is no doubt that the project will go ahead, regardless of the success of this application for Regional Partnerships funding. Hence, Regional Partnerships funding is not considered essential for this project.'

[516] ANAO Better Practice Guide–Administration of Grants, op. cit., paragraph 3.17, p. 44.

Assessing whether the project is at an appropriate stage for Regional Partnerships funding

4:4.44 In terms of the stages of corporate and project development, Applied Financial Diagnostics[517] advised ANAO that:

> An assessor needs to identify the stage that a company has achieved in order to put the project risk into the context of the company's life cycle. An investment in a project being proposed by an immature company will be relatively riskier than one in an established company.

4:4.45 In this context, in relation to for-profit organisations, the very early stages of project development are excluded from Regional Partnerships funding. This is reflected in the current Regional Partnerships Programme Guidelines, which state that the organisations eligible to apply for funding under the Regional Partnerships Programme include:

> private enterprise business–except where the project is to produce a plan or undertake studies or research.

4:4.46 For-profit organisations with projects at all later stages of development are eligible to apply for Regional Partnerships funding, and may therefore require analysis by DOTARS in assessing whether a project should be recommended for funding. Table 4:4.2 reflects advice to ANAO from Applied Financial Diagnostics on the characteristics of the stages in the development of a commercial venture and the types of funding usually available at each stage.

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[517] To assist with audit analysis, ANAO engaged treasury specialists Applied Financial Diagnostics Pty Ltd (Applied Financial Diagnostics) to provide advice on financial risks (including viability risks) associated with Regional Partnerships projects submitted by for-profit organisations.

Table 4:4.2

Project life cycle and funding availability

Stage and description	Finance Sources	Risk
Start-up The venture has at least one principal working full time. Key management team members are being sought and product development work is being finalised. However, there are probably few, if any, sales.	Founders, 'business angels'. Bank funding very unlikely.	Very high
First -stage The venture has launched and possibly achieved initial sales. A management team is in place along with employees. The company is not yet at the break-even point (i.e. still incurring operational losses). The funding at this stage is used to build the corporate infrastructure and distribution system, increase productivity and build sales as the ability to generate cash flow is demonstrated (i.e. to be able to service interest and capital payment obligations).	It is at this stage that venture capitalists prefer to get involved. Banks will begin lending.	High
Second-stage Sales are increasing. The company is profitable and accumulating accounts receivable and inventory. Capital from this stage is used for funding expansion in all forms—increasing marketing expenditure, entering new markets and financing working capital.	Venture capital firms specialising in later-stage funding enter the picture at this point. Banks are now often vying to lend to the company.	Moderate
Third-stage The venture is now successful and proven. It has three to four years history of profit growth. The second level of managers is in place. Money from this financing is used for increasing plant capacity (or other capacity depending on the nature of the business), marketing, working capital, and product improvement or product range expansion.	The banks can comfortably analyse the company's financial history to make their lending decisions. An ongoing level of bank debt is expected as part of the capital structure of the company.	Moderate to low
Established The company has substantial history of profitable operations with a proven market share, an established and healthy capital structure and a good credit rating.	Financial institutions including banks. Possible public listing.	Low

Source: Applied Financial Diagnostics Pty Ltd advice to ANAO.

4:4.47 In terms of the merits of Regional Partnerships funding:

- the start-up stage often may not be appropriate for Regional Partnerships funding due to the high risks involved;

- the first and second stages of development are often the most appropriate for Regional Partnerships funding because grant funding can assist an otherwise marginal project to be viable, alternative sources of finance may not be available (or are only available at a cost that increases viability risks), and risks are either more manageable or reduced compared to the start-up stage; and
- the third stage of development (and entities/projects that are well established) are often not appropriate for funding. Although viability risks are generally lower, alternative sources of finance are readily available.

4:4.48 In its assessments of projects from for-profit organisations in ANAO's sample, DOTARS often gave little explicit consideration to the stage of the development of the organisation and the project for which funding was sought. One consequence of the absence of this type of analysis was that DOTARS was not well placed to critically assess the veracity of advice from well established applicants that alternatives to Regional Partnerships funding had been exhausted.

4:4.49 For example, as in RP01459 Sakai/CIC Business and Export Development project, the applicant company's predominant customer for the mould flux[518] it manufactured had advised that eligibility for any future contracts would depend upon it obtaining the capability to provide the more advanced spherical granule form. The Regional Partnerships application sought funding of $250 000 toward the purchase and installation of the spray drying facility needed to develop and manufacture the new product. DOTARS advised the then Minister that:

> The applicant has indicated that it is financially unviable to spend any more of its own funds on this project (beyond its $1.38 million contribution) as it would overcapitalise its premises. This appears reasonable given the $2 million upgrade of their facilities underway which is financed by a bank loan.

4:4.50 However, in March 2005, one month after the application was submitted, the applicant provided DOTARS with a more detailed list of the project budget which indicated that estimated costs had increased by a further $219 654 to $1 857 654. This higher estimate was used in the external viability assessment subsequently commissioned by DOTARS in respect to this project,

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[518] Mould flux is an essential raw material in the manufacture of steel.

which noted that, given the increases in estimated project costs since the applicant company started planning the project, there was a risk that construction costs may continue to increase and may be higher than anticipated. The external viability assessment also found that quotes had not been provided for all costs.[519]

4:4.51 However, the implications for value for money to the Commonwealth arising from the apparent capacity and willingness of the for-profit applicant to incur additional expenditure equating to 88 per cent of the amount originally sought in Regional Partnerships funding was not considered by DOTARS. There was also no evidence of DOTARS seeking additional information from the applicant regarding its capacity to absorb the increased costs, in light of its earlier statements that it could not commit more than $1 388 100 to the project. Instead, the departmental assessment submitted to the then Minister continued to use the lower project cost of $1 639 100 and applicant contribution identified in the original application.

4:4.52 The financial acquittal received from the funding recipient in February 2007 identified that it had expended $1 990 189 on the project to 20 February 2007. This was $602 089 or 43 per cent more than the $1 388 100 proposed in the Regional Partnerships application and identified in DOTARS' assessment provided to the Minister as representing the maximum cash contribution the company could make.

4:4.53 These matters were compounded by the approach taken to managing the risk that the funding recipient was economically dependent on a predominant customer. The Regional Partnerships application advised that, if the applicant's parent company elected to import the spherical granule mould flux, it would be liquidated, with a loss of four direct jobs, and possibly up to five indirect jobs in the company group. The then Minister's approval of Regional Partnerships funding was subject to the funding recipient providing evidence of its five year contract with its main customer. This reflected the applicant's economic dependence on that customer, as identified by the external viability assessment. This requirement was also included in the Funding Agreement as a pre-condition to the funding recipient receiving the first payment of $115 000 (GST inclusive)—46 per cent of the total grant.

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[519] The project costs appear to have remained uncertain for some time. Project quotes provided to ANAO by the applicant in April 2006 totalled $1 200 550. This included quotes that differed from those provided to DOTARS and quotes were not provided for some of the items identified in the applicant's March 2005 advice to DOTARS.

4:4.54 The funding recipient was unable to satisfy the condition on the Minister's approval or the relevant clause in the Funding Agreement as it was unable to obtain a five year contract from its main customer prior to successfully completing the project for which the Regional Partnerships funding had been sought. However, rather than enforce the terms of the Funding Agreement, DOTARS decided to vary the Agreement to change the securing of a five year contract from a funding pre-condition to an outcome resulting from the provision of the funding. Given the inherent and identifiable risk that the spherical granular mould flux would not be successfully developed to the main customer's satisfaction, the Regional Partnerships funding essentially represented venture capital at risk.[520]

4:4.55 Whereas RP01459 Sakai/CIC Business and Export Development project related to an established entity seeking funding for the development of a new process with an identified prospective customer, RP01578 Aerox Odour Control Filters for Grape Marc Separator/Dryer project involved a recently established company with no track record of profitable operations implementing a new process and relying on an undeveloped market for most of its revenues. In this instance, the recipient of $393 636 (plus GST) in Regional Partnerships funds was declared to be insolvent one month after the final payment of Regional Partnerships funds was made in October 2005.

4:4.56 DOTARS had provided the then Parliamentary Secretary with two assessments relating to that application.[521]

4:4.57 The department's first assessment, submitted on 18 March 2005, did not recommend funding due to issues associated with outcomes and retrospectivity, but concluded that both applicant and project viability risks were 'medium' and satisfied those criterion. However, DOTARS' assessment was deficient in terms of the financial analysis undertaken on the applicant and the project as presented in the application and attached business plan. More rigorous analysis of the available information would have led to a more informed assessment and provided stronger support for the department's initial recommendation that the project not be approved for funding.

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[520] On 10 October 2007, DOTARS advised ANAO that: 'The funding recipient is providing monthly updates to DOTARS regarding the status of the contract with BlueScope Steel. The contract has been negotiated but is awaiting final signature from BlueScope.'

[521] See footnote 482.

4:4.58 On 10 May 2005, the then Parliamentary Secretary requested that DOTARS provide further information on its March 2005 project assessment, including the external viability assessment undertaken for the application. No such assessment had been commissioned by DOTARS. Instead, DOTARS relied upon an assessment undertaken for a different purpose on behalf of the State Government. In relation to DOTARS' June 2005 second assessment, which recommended funding approval, ANAO's case study of this project identified that:

- DOTARS assessed the application as satisfying the applicant viability criterion, and that the risks identified by the State Government's external financial viability assessment could be managed through the Regional Partnerships Funding Agreement. However, the Funding Agreement was not drafted and managed so as to achieve this;
- DOTARS assessed the application as satisfying the project viability criterion, but a rigorous assessment of project viability was not undertaken by DOTARS; and
- DOTARS received advice that the applicant had secured commercial borrowings to fund the overall project, but did not undertake any further due diligence to analyse the borrowing terms and conditions so as to inform its assessments of applicant and project viability risks.

4:4.59 The public money paid to the applicant was reflected in assets that were liquidated for the benefit of creditors. Deficiencies in DOTARS' assessment and contract management procedures contributed to this result.

Assessing whether alternative funding sources have been exhausted

4:4.60 The Regional Partnerships Programme Guidelines state that whether alternative funding sources have been sought will be a factor in assessing partnership contributions.[522] The availability of other sources of funding is also an important issue to be addressed in analysing applicant and project viability. For example, the June 2004, September 2004, February 2005 and September 2005 versions of the Internal Procedures Manual stated that when considering an application from the private sector, assessors should consider whether the Australian Government was seen as the financier of last resort as this may be

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[522] DOTARS, Regional Partnerships Guidelines, July 2006, p. 12.

an indicator of project risk. In addition, as outlined at paragraph 4:4.4, in May 2007 the current Minister for Transport reiterated the importance of whether alternative funding sources had been exhausted as a consideration in relation to commercial projects.

4:4.61 In this respect, there were a number of applicants in the sample examined by ANAO that successfully applied for Regional Partnerships funding after satisfying DOTARS that they had exhausted other avenues for funding the project without threatening the viability of the project. For example:

- in relation to RP01826, funding was approved for the Limestone Coast Cheese Company to construct a gourmet cheesery in Lucindale, South Australia. DOTARS' May 2005 assessment provided to the then Parliamentary Secretary stated that:

  > Additional Government funding sources involving the recently launched 'Food Processing in Regional Australia Programme' was suggested to the applicant, but rejected due to the time critical nature of the project—the Food Processing in Regional Australia round does not close until the end of June and was not available at the time of application.
  >
  > The applicant's contribution has been confirmed by a letter of offer from [*its bank*] in Naracoorte. This amount is the extent of the borrower's limits.

- in relation to RP01758 Geraldton Marine Service Centre project, funding was approved for the establishment of a marine service precinct centred on a 200 tonne heavy boat lifter in the Port of Geraldton, Western Australia. DOTARS' August 2005 assessment provided to the then Minister advised that:

  > Partnership support for this project is considered adequate. The applicant has demonstrated that they are unable to viably debt finance the project due to the low profits expected for this type of venture, and the fact that they will be required to start paying rent to the Port Authority once they begin to make a profit.

4:4.62 There were also instances of projects not being approved for funding on the basis of DOTARS' assessment that other financing options had not been exhausted. For example, in relation to the RP01605 Mills Mechanical Big Shed Construction project, funding was not approved because the project was assessed as not demonstrating value for money and it was considered that the applicant had the resources and ability to fund the full project cost commercially. In this latter respect, DOTARS' April 2005 advice to the then Parliamentary Secretary was that:

> The [*applicant's bank*] has provided documentation which confirms it would be willing to fund the project and has provided a number of financial options. Therefore this application does not meet the Regional Partnerships funding guidelines as the applicant has the ability to fund the project costs themselves.

4:4.63 However, there were inconsistencies in the extent to which the departmental assessment of applications from for-profit entities provided to the Ministerial decision-maker addressed this issue, in order to fully inform the Minister's discretionary decision.

4:4.64 In aggregate, the departmental assessments provided to the Ministerial decision-maker in relation to 61 per cent of the applications in ANAO's sample addressed whether the for-profit applicant had sought funding from other sources before seeking Regional Partnerships funding. However, DOTARS' advice to the Ministerial decision-maker in relation to 11 of the applications from for-profit organisations in ANAO's sample (39 per cent) did not address whether other funding sources had been exhausted by the applicant. In such circumstances, Ministerial decision-makers are not being adequately informed by the department, prior to exercising their discretion under the Programme Guidelines to approve funding.

4:4.65 In the context of the variable performance by Regional Offices in addressing the availability of alternative funding sources, ANAO recognises that each of the project assessments were finalised by the respective Regional Offices working with DOTARS National Office, and that National Office provided the final project assessment and recommendation to the Ministerial decision-maker. In this respect, as part of its procedures, National Office did not promote consistent attention to this issue in project assessments submitted to the Minister. For example, Package 105 was provided to the then Parliamentary Secretary by National Office on 15 June 2005. It contained 11 projects recommended for funding and 10 projects that were not recommended for funding. Two of the 21 projects in the package were from for-profit organisations in ANAO's sample of ACCs, as follows:

- the projects not recommended for funding included RP01450 Bio Ash Recycling Project in the Kimberley ACC. The then Parliamentary Secretary was advised that:

  > This project is not recommended for funding because the applicant has failed to demonstrate that they have exhausted other funding options and have not

justified that Regional Partnerships is the 'funder of last resort' despite being given ample opportunity to do so; as the outcomes of the project will assist the applicant in meeting the requirements of their environmental licence,[523] the project could be considered to be cost shifting; and the partnership support for the project is not considered adequate.

- the projects recommended for funding included RP01500 Limestone Coast Transport Industry Skills Training Centre in the South East South Australia ACC (now Limestone Coast ACC). The amount of Regional Partnerships funding applied for was $76 448 (plus GST), but DOTARS recommended partial funding of $32 000 on the condition that the applicant and/or other project partners provided the balance of funds required. This condition was recommended to the then Parliamentary Secretary by DOTARS notwithstanding that the department had not assessed whether other funding sources had been exhausted, or whether the applicant was able to contribute additional funds. On the basis of the assessment provided to him by the department, the then Parliamentary Secretary approved the partial funding, but altered the condition of funding to require the for-profit applicant to meet the funding shortfall itself. The Funding Agreement executed by the South Australian Regional Office did not accurately reflect this funding condition. Instead, it reverted to the original departmental recommendation, and required the funding shortfall to be met by the applicant or other (unnamed) sources.[524] In this respect, the funding recipient advised DOTARS in an April 2006 Progress Report that project costs had increased and:

> At this stage we are unable to fund the balance of the project due to a decrease in business as a result of high fuel prices & economic down turn in the transport & agriculture industries. We have attempted to source other funding, but so far have not been successful.

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[523] In this respect, it should be noted that RP01578, which was funded for the purchase and installation of "Aerox" odour control filters and the electrical supply and installation for a grape marc separator/drying facility to be built at Nuriootpa in South Australia, was approved on the basis of advice that the filters were stipulated as a requirement by the South Australian Environmental Protection Authority. DOTARS' second assessment, which recommended funding approval, did not raise any concerns that RP01578 could be seen as involving cost shifting (see ANAO's case study of Aerox Odour Control Filters for Grape Marc Separator/Dryer at Chapter 11 of Volume 3 to this audit report).

[524] This error arose due to the Regional Office preparing the Funding Agreement on the basis of an unsigned copy of the draft letter to the applicant advising of the conditional partial funding approval provided to the then Parliamentary Secretary by DOTARS with its assessment, rather than obtaining a copy of the amended letter to the applicant actually signed by the then Parliamentary Secretary, which included the revised funding condition requiring the applicant to meet the funding shortfall.

Financial institutions and venture capitalists

4:4.66 To the extent that DOTARS' assessment practices currently involve identifying alternative funding sources, the focus is on financial institutions such as banks and, on occasion, possible other Government funding programmes.

4:4.67 In this context, whilst borrowing through financial institutions may be a major source of debt finance for businesses, Applied Financial Diagnostics advised ANAO that debt financing, such as through banks, is not a viable option for some enterprises because:

- banks require collateral, which is usually in short supply in new ventures;
- debt financing can inhibit growth because an enterprise needs to repay loans rather than invest in future growth; and
- debt financing exposes the recipient to changes in the economy, the bank's financial performance and bank auditors/regulators.

4:4.68 In this context, Applied Financial Diagnostics advised ANAO that an alternative to debt finance through a financial institution is venture capital. Venture capital involves a fund manager providing equity financing and managerial advice to investee companies to assist in their rapid growth.[525] An investee company receives capital, managerial expertise and an enhanced business reputation as a result of the venture capital investment. In return for the provision of capital, a fund manager acquires part-ownership of the company and usually a seat on the board of directors. The fund manager's ultimate goal is to make a profit from the long-term, patient investment, through capital gain.

4:4.69 Venture capital is sometimes characterised as 'risk capital'. It offers investors a higher return than that obtained from safer investments such as money market deposits, fixed interest or equities. Applied Financial Diagnostics advised ANAO that venture capital is the most expensive equity in the financial markets, with venture capitalists routinely requiring a 35 per cent return on equity after tax on their investment.

4:4.70 When analysed by activity, as defined by the Standard and Poors Activity Classification, Manufacturing and Transport related activities

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[525] AusIndustry, *Fact* sheet*: Innovation Investment Fund*, February 2005, p. 1.

attracted the largest share of venture capital investment in 2004–05, with $1 323 million or 38 per cent of total investment as at the end of June 2005.[526] Retail, Services and Real Estate with $932 million (26 per cent) and IT, Media, Electronics and Communication with $728 million (21 per cent) also attracted large shares of the total investments as at the end of June 2005.[527]

4:4.71 Applied Financial Diagnostics advised ANAO that there are normally three stages involved in venture capital investments, as follows:

- **Stage 1: Seed Money:** This involves a small amount to initiate the programme or apply for an independent grant;
- **Stage 2: Mezzanine finance:** Finance to ensure that the project is launched. This stage normally involves non-bank finance but government funding would provide an excellent platform for this stage as no independent funding would then be required; and
- **Stage 3: Independent Public Offering:** Transfer of risk to third parties after capitalising on the absorption of risk by intermediary partners (such as the government).

4:4.72 There were a number of applications from for-profit organisations in ANAO's sample that involved projects in the start-up or first stage of their lifecycle (see Table 4:4.2 above). Due to the project risks, Applied Financial Diagnostics advised ANAO that banks often do not lend to such projects. However, to the extent that other funding sources were evaluated in DOTARS' assessment of these applications, the focus was on the availability of credit from financial institutions.

4:4.73 The issue here is not of DOTARS advising applicants on alternative sources of finance, but that for the department to provide well considered advice to Ministers on whether there are alternative sources of funds, it needs to have an understanding of what alternative sources of finance are likely to be available for the project being assessed. As well as understanding the project and its stage of development (as outlined above), for the Regional Partnerships Programme this requires an appreciation of the different sources of finance available to regional business compared with metropolitan business. In this respect, in its June 2003 report, the Regional Business Development Analysis

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[526] Australian Bureau of Statistics, 5678.0—Venture Capital, Australia, 2004–05, 28 November 2005, p. 12.

[527] ibid.

Panel advised the government that, for a number of reasons, many regional business find it difficult to access finance.[528]

Focus on bank finance as an alternative source of funds

4:4.74 As outlined above, in its analysis, DOTARS usually focuses on new bank finance as the primary alternative source of funds sought from the Regional Partnerships Programme. In this respect, for the projects in ANAO's sample, DOTARS does not have procedures in place to scrutinise other alternative sources of funding such as existing, unused lines of credit or equity finance. For example, in relation to lines of credit:

- ANAO's examination of RP01216 Organic Chicken Processing (involving $200 000 (plus GST) in Regional Partnerships funding for a project involving the construction of an on-site processing plant for an organic chicken enterprise) outlined how the department's project assessment did not address nearly $4 million in undrawn loan facilities that were available to the for-profit applicant. In this respect, the financial acquittal for the project demonstrated that the funding recipient was able to finance an extra $1 034 085 in project costs through its prime bank and own funds; and
- information obtained to inform an external viability assessment of RP01364 Country Homes and Cabins revealed that the applicant's contribution to the project was to be financed largely through real estate sales being used to repay loan accounts, thereby enabling these loan facilities to be used to cover the proponent's share of the project's expenditure in line with the application. The amounts involved were considerably greater than the amount being contributed to the project by the applicant.

4:4.75 In this context, a number of DOTARS' assessments of applicant and project viability in relation to projects submitted by for-profit organisations examined by ANAO did not display an understanding of the typical role and attributes of debt as distinct from equity in a commercial venture. In this respect, Applied Financial Diagnostics advised ANAO that commercial enterprises typically employ a mix of debt and equity in their capital structure. Table 4:4.3 summarises the attributes of debt and equity in a commercial enterprise.

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[528] DOTARS, *Regional Business—A Plan for Action*, June 2003, pp. 19–20.

Table 4:4.3

Attributes of debt and equity financing in a commercial enterprise

Debt	Equity
Pays a lower return to the lender than equity does to the shareholder.	Pays a higher return to the equity holder than debt.
Pays a fixed return. Debt holders receive interest payments that only vary with the interest rate that is set from time to time.	Pays a variable return in the form of dividends and capital appreciation. The more successful the company, the higher the return.
Is repaid before creditors and equity holders in the event of the company failing.	In the event of failure debt holders and creditors are paid first. The return to equity holders is generally zero. Equity is therefore riskier than debt.
Is not subject to capital appreciation.	Is subject to capital appreciation and depreciation.

Source: Applied Financial Diagnostics Pty Ltd advice to ANAO.

4:4.76 Because debt pays a fixed return, a company increases its return to equity holders by increasing the amount of debt (with respect to equity) in its capital structure. However, in terms of viability risks, increasing the ratio of debt to equity in the capital structure increases the risk to equity holders in two ways. The return to equity holders is more volatile because interest expense is fixed but the profit will vary. And the risk of failure is increased because the company must meet the fixed interest payments out of profits. Additionally, in the event of failure, the likelihood of equity holders receiving any funds is greatly reduced because the debt will be paid out first.

4:4.77 In this context, ANAO's examination of RP01216 Organic Chicken Processing demonstrated that the department did not scrutinise the applicant's multi-million dollar capital raising program that was underway at the time the Regional Partnerships application was submitted. This and other contemporaneous financial data should have indicated to DOTARS that there was every possibility that the applicant could have met the identified funding requirements of the project to construct an on-site processing plant without Regional Partnerships assistance.

4:4.78 In June 2007, DOTARS advised ANAO that it was liaising with the department's external viability assessment providers to clarify what these providers are required to consider in their analysis of applicant and project viability. DOTARS further advised ANAO that the various sources of funding proposed for the project and the corresponding risks involved would be part of this consideration. In this respect, as outlined in Recommendation No. 13 at paragraph 4:3.48, there are opportunities (in a risk management context) to enhance the parameters used for deciding whether to obtain external advice to include consideration of the size and complexity of the overall project (which impacts on the alternative sources of financing that would be available) as well as the amount of Regional Partnerships funds being sought.

Financing terms and conditions

4:4.79 Due diligence procedures were also deficient with respect to the department analysing the terms of finance arrangements for the cash contribution to the project to be made by for-profit applicants in ANAO's sample. An example of this related to RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith project, submitted for funding of $571 500 (plus GST) by a for-profit organisation for the relocation and expansion of its seed processing facility. The department did not recommend funding for this application due to concerns regarding the financial viability of the applicant identified by the external viability assessment and a supplementary external viability assessment. In May 2006, the Ministerial Committee disagreed with the department and approved funding of $571 500 (plus GST).[529]

4:4.80 In the course of its assessment, DOTARS did not undertake adequate due diligence in respect to confirming the financing arrangements for the applicant's proposed cash contribution, a key issue for this application. The department did not adequately scrutinise the documents that were provided to it by the applicant, both with the original application and subsequently. Had it done so, it would have realised that both the original and supplementary external viability reports were in error in respect to this aspect of the project.[530]

4:4.81 It would also have realised that the Ministerial Committee should have been advised that, should it choose to disagree with the department's recommendation and approve funding, it would be appropriate to make such

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[529] The issues that arise in circumstances where Ministerial decision-makers reach a funding decision that is different to that recommended by the department are discussed in Part 2 of this audit report on Application Assessment and Approval Processes.

[530] The first report was in error in regard to whether the applicant had provided any documentation regarding the bank finance (which DOTARS had received but not provided to the external assessor) and the supplementary report was in error in regard to whether the bank had confirmed approval of the funding (which the external assessor had reported to be the case, despite the documentation provided to DOTARS by the applicant clearly specifying that this was not the case and that no formal application for bank finance was to be made until after the outcome of the Regional Partnerships application was known).

approval subject to the applicant providing evidence of finance approval from its bank (as had occurred for some other 'not recommended' projects). This would have addressed the risk of Regional Partnerships funds being paid to the applicant prior to the funding necessary to complete the project having been secured. Instead, DOTARS approved the first instalment of Regional Partnerships funds of $285 750 (plus GST) (50 per cent of approved funds) for payment on 7 August 2006, some five months before a formal letter of offer for a financing facility of $1.9 million for the construction costs was provided to the applicant by its bank on 27 December 2006 and accepted by the applicant on 14 January 2007.[531]

4:4.82 Nor did DOTARS adequately examine the relative assignment of risk and financing costs to the Commonwealth that would arise under the conditions likely to be attached to any approved bank finance for the project, as was documented in correspondence from the bank provided to DOTARS by the applicant. The associated risks have subsequently been realised under the terms of the financing facility offered by the bank and accepted by the applicant. Specifically, before the first drawing from the construction facility, the funding recipient was required to provide satisfactory evidence to its bank that shareholders' equity in the project (identified by the bank as being approximately $1 096 000, including the Regional Partnerships grant) had been fully expended. Under this condition, combined with DOTARS making an advance payment of 50 per cent of Regional Partnerships funds, the Commonwealth was placed in the position of accepting financing costs and other risks that it would be reasonable to expect a for-profit applicant to be carrying, through its commercial finance arrangements.

4:4.83 In June 2007, DOTARS advised ANAO that the revised on-line application form specifically requires the applicant to identify all sources of funding that will be used in the project, and any terms and conditions that apply to these funds.

Recommendation No.15

4:4.84 ANAO *recommends* that the Department of Transport and Regional Services better manage risks to the Commonwealth in relation to Regional

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[531] DOTARS also did not adequately implement the funding condition stipulated by the Ministerial Committee in respect to confirmation of a cash capital contribution of $500 000 from shareholders in the applicant in order to ensure the risk to the Commonwealth was minimised.

Partnerships applications submitted by for-profit entities by explicitly assessing:

(a) whether the project is at an appropriate development stage for funding;

(b) whether the applicant has investigated the availability of relevant alternative funding sources (both debt and equity); and

(c) the terms and conditions attaching to any other contributions for the project.

DOTARS response

4:4.85 Agreed.

Assessing project viability

4:4.86 In assessing the viability of projects submitted by for-profit entities, it is important that the department's analysis be informed by analysis of past financial performance together with the key assumptions underlying the project's expected outcomes and the resulting projected cash flows. It is appropriate that the extent of information sought from applicants, and the level of analysis, be commensurate with the scale, complexity and variety of projects that are submitted by for-profit entities. In the context of the Regional Partnerships Programme where projects may be expected to strike a balance between being viable but, at the same time, have exhausted other funding sources, DOTARS requires access to a range of skills and advice to ensure the merits of projects are properly assessed.

4:4.87 In this context, Applied Financial Diagnostics advised ANAO that projects submitted by for-profit organisations fall into three categories, as outlined in Table 4:4.4. ANAO was further advised that:

> The risk to the Commonwealth is in funding Category A projects that should be able to attract sufficient funding from non-Commonwealth sources or Category C projects that are not likely to survive even with the requested level of Commonwealth assistance.

Table 4:4.4

Categorisation of suitability for grant funding of projects submitted by for-profit organisations

Category	Description
A	The business and/or project are commercially viable and could be expected to attract either equity or debt funding from non-government sources. The outcomes will therefore be achieved without Regional Partnerships funding and those funds would be more usefully deployed elsewhere.
B	The combination of existing business and new project is borderline viable. It would not go ahead without the benefit of a grant—but with which it could be reasonably expected to be sustainable and to achieve its planned outcomes.
C	The business and/or project is not viable and is likely to fail, even with the assistance of a Regional Partnerships grant. This project should not be funded because its outcomes are not sustainable.

Source: Applied Financial Diagnostics Pty Ltd advice to ANAO.

4:4.88 In this respect, the financial information for-profit organisations can be asked to supply to support their Regional Partnerships applications for funding can provide much of the information necessary to undertake quantitative analyses of projects. However, there was little evidence of any such analysis being conducted by DOTARS with respect to the 28 applications from for-profit organisations in ANAO's sample.

4:4.89 Further in this respect, there were a small number of applications in ANAO's sample where part-funding was recommended by DOTARS, with only one of those being an application from a for-profit organisation. However, these recommendations were not informed by quantitative analyses focused on identifying the quantum of public money that would be likely to turn an otherwise marginally viable project into a viable project. In this respect, Applied Financial Diagnostics advised ANAO that:

> This is unusual in the case of commercial funding institutions, where the amount of the debt funding that an institution is willing to provide is partly dependent on preliminary financial analysis such as that taken in [*net present value analysis*]. [*In addition*] financiers often are willing to provide some contingency or back-up funding as a precautionary reserve.

Analysis of historical financial data

4:4.90 For some projects in ANAO's sample, DOTARS' assessment, as provided to the Ministerial decision-maker, commented on the profitability of the applicant and/or the project, based on the information provided by the applicant. However, the only applications from for-profit organisations where documented analysis of historical financial results existed was in relation to those applications that were subject to an external viability assessment. In those cases, analysis was generally undertaken by the external assessor of the existing financial position, recent earnings performance and various financial ratios were often calculated and compared to benchmarks so as to inform the assessment.

4:4.91 By way of comparison, the records relating to projects assessed by DOTARS alone did not evidence any rigorous analysis of the historical financial data provided by applicants in order to inform assessments of applicant and project viability risks. As a result, the assessments that did refer to the applicant's financial position and/or performance were generally limited in the level of analysis.

4:4.92 Had such financial analysis been conducted as part of assessing Regional Partnerships applications in respect to which an external viability assessment was not undertaken, it would have been usual for there to have been explanations sought for anomalies and adverse results in order to arrive at a well considered assessment. In this respect, in addition to the absence of any documented analysis for the Regional Partnerships applications in ANAO's sample from for-profit organisations that were not subject to an external viability assessment, there was no evidence of DOTARS raising issues or concerns with any of the applicants regarding the results of DOTARS' analysis of the financial information provided. There was also no reference to any such analysis in the project assessments and advice provided to the relevant Ministerial decision-maker.

4:4.93 In this context, Table 4:4.5 outlines advice from Applied Financial Diagnostics of financial ratios that could usefully be applied by DOTARS when assessing the financial viability of Regional Partnerships applications.

Table 4:4.5

Financial ratios relevant to assessing viability of applications from for-profit organisations

Category	Indicator	Description	Benchmark
Profitability	Gross profit margin	Sales less cost of goods sold divided by turnover.	No fixed benchmark. Industry dependent. The higher the better.
	Net profit margin	Net profit after tax divided by sales.	
Liquidity	Current ratio	Current assets divided by current liabilities.	Benchmark of 2. A value less than 1 is indicative of potential liquidity problems.
	Quick ratio	Quick assets divided by current liabilities. Quick assets are current assets less inventory.	A quick ratio of 1 is desirable. This indicates that current liabilities can be met with quick assets.
Bankability	Debt/equity ratio	Debt divided by equity.	A ratio of 2 or less is desirable. Varies by industry.
	Interest coverage ratio	Earnings before interest and tax divided by interest payable on loans.	At least 2 is desirable.
Efficiency	Inventory turnover	Sales divided by inventory.	There is no benchmark as it is dependent on the industry and type of product.
	Average collection period	Receivables divided by average sales per day.	Should be equal to or less than the company's credit terms. If greater than the credit terms it is indicative of debt collection problems.

Source: Applied Financial Diagnostics Pty Ltd advice to ANAO.

Quantitative analysis of projected cash flows

4:4.94 Similarly to analysis of historical financial data, the only occasions on which projected financial results provided by for-profit applicants were analysed was in relation to the small proportion of applications in respect of which an external viability assessment had been commissioned by DOTARS. In this respect, the economic evaluation of investment proposals is often undertaken using NPV and/or Internal Rate of Return (IRR) analyses. Both are time-adjusted measures, calculated as follows:

- a project's NPV is derived by discounting the project's net cash receipts using the minimum required rate of return on new investments (often referred to as the entity's cost of capital), summing these discounted receipts over the lifetime of the proposal and deducting the initial investment outlay; and

- a project's IRR is defined as the discount rate that equates the present value of the stream of net receipts with the initial investment outlay. In other words, the IRR is the discount rate that equates the NPV of the cash flows to zero.

4:4.95 In terms of quantitative evaluation of applications for funding from for-profit organisations, Applied Financial Diagnostics advised ANAO that the net present value of projects should be assessed on the following bases:

- most investment decisions are made on an after tax basis and, accordingly, the NPV analysis should include the tax payable;
- analysis should be cash-based, such that:
  - the analysis should present value the project cash flows rather than accounting measures of profit and loss. All future capital cash flows—from items such as financing and asset sales—should be included. Depreciation should be excluded, except that the depreciation tax shield must be included in the calculation of tax cash flows;
  - interest should not be included in the cash flows as this tends to confuse the investment and financing decisions in the evaluation of a commercial proposal. Instead, the interest rate should be adjusted to include the benefit of the tax shield of debt (compared with equity) financing; and
  - Regional Partnerships grant monies should be included as a positive cash flow as they occur. They should also be included as income in the calculation of the tax-related cash flows;
- if the project does not have a finite life, a terminal value should be estimated and included[532];
- in terms of discount rate, the weighted average cost of capital (WACC) should be used to present value the cash flows. The interest rate

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[532] Applied Financial Diagnostics further advised ANAO that the most common measurement of business valuation is the multiple of after tax earnings, or 'price earnings ratio' (PER). Therefore, the need to calculate a terminal value requires the estimation of an appropriate PER for the underlying project.

component of the WACC should be adjusted to include the tax benefit of debt[533]; and

- the Regional Partnerships grant is included as income to the project rather than as part of the amount invested in the cost of the project. This is because Regional Partnerships grants increase after tax cash flows to the recipient, without any expected return payable by the funding recipient to the Commonwealth.[534]

4:4.96 The project NPV and IRR was calculated in relation to four of the 14 applications from for-profit organisations in ANAO's sample where DOTARS commissioned an external viability assessment. The project NPV or IRR was not calculated for any of the remaining 24 applications from for-profit organisations in ANAO's sample. Further, the reliance that could reasonably be placed on such analysis where it was undertaken was reduced as result of the limited nature of the financial information provided by the applicants for analysis[535], or there were concerns about the quality of the data. In addition, as outlined in Chapter 2 of this part of the audit report, even where a negative NPV was calculated by the external assessor, the department's assessment and advice to the Ministerial decision-maker did not draw attention to this issue, indicating that the department does not appreciate the significance of a negative NPV for commercial projects.

Recommendation No.16

4:4.97 ANAO *recommends* that the Department of Transport and Regional Services improve the rigour and reliability of its assessment of viability risks in relation to applications for Regional Partnerships funding received from for-profit organisations by:

(a) enhancing the minimum financial information required to be submitted by for-profit organisations, particularly with respect to the provision of

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[533] This is achieved by multiplying the interest rate by (1 minus the tax rate).

[534] Where Regional Partnerships funds are received in the first year of the project's life, the income is not discounted. Where amounts are received in later years, the income should be discounted.

[535] In three of the four instances where NPV and IRR calculations were undertaken, the firm that conducted the external viability assessment commented that the period of time for which cash flow projections were provided may not be sufficient in order to correctly calculate the NPV and IRR of the project, and that it was preferable that at least 10 years of projections be provided by the applicant. In none of these instances did DOTARS obtain projections for the longer period of time.

more extensive data on projected cash flows to underpin reliable financial analysis; and

(b) developing procedures for project viability assessment that involve the quantitative analysis of financial information provided by applicants so as to better inform decisions on the merits of approving funding, and the appropriate quantum of funding.

DOTARS response

4:4.98 Agreed.

Part 5: Managing for Outcomes

5:1 Introduction to Managing for Outcomes

This chapter provides an overview of the intended outcomes to be achieved from the Regional Partnerships Programme and the Senate Committee's findings and recommendations in this area. It also provides an outline of the content of the chapters in this part of the report.

Background

5:1.1 In the 2003–04 Budget Papers, the Government announced that:

> From 1 July 2003, the Government will incorporate a range of its regional programmes into a new integrated programme to be called Regional Partnerships. The new programme will support initiatives in Australia's regions in four key areas: strengthening growth and opportunities; improving access to services; supporting planning; and assisting structural adjustments for communities.[536]

5:1.2 Potential applicants for Regional Partnerships funding are advised in the Programme Guidelines that proposed projects will be assessed against the extent to which they meet programme objectives and that particular regard will be had to the outcomes that will be achieved. In this respect, applicants are advised that:

> Outcomes are the long-term benefits that a project brings to a community. For example, outcomes might include an increase in employment, increase in education opportunities, improved community services, the delivery of improved financial services, expansion of infrastructure to service a larger proportion of the community, upgrades to community facilities which result in community benefits or an increase in community capacity.
>
> Projects should have a positive outcome and represent value for money.[537]

5:1.3 In this context, the Regional Partnerships Programme has operated under broadly expressed objectives, which are currently expressed in the following form:

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[536] Budget Paper No 2, 2003–04 Budget.

[537] DOTARS, Regional Partnership Guidelines, July 2006, p. 10.

- **stimulate growth in regions** by providing more opportunities for economic and social participation;
- **improve access to services** in a cost effective and sustainable way, particularly for those communities in regional Australia with a population of less than 5 000;
- **support planning** that assists communities to identify and explore opportunities and to develop strategies that result in direct action; and
- **help communities make structural adjustments** in regions affected by major economic, social or environmental change.[538]

5:1.4 The broad Programme objectives provide significant flexibility in respect to the types of projects that can be considered to support one or more of the objectives and, therefore, be approved for funding. This was reflected as follows in the then Minister for Transport and Regional Services' October 2005 advice to the Prime Minister proposing the formation of the Ministerial Committee:

> The value of the RP programme lies in its ability to provide funding to meet the broad needs of communities which would otherwise remain unfunded.

5:1.5 A corollary to the existence of wide parameters in relation to funding decisions is that it can be difficult to assess on a comparable and equitable basis those projects that are appropriate to be funded through the Programme. In addition, where a wide variety of projects can be approved for Regional Partnerships funding, it becomes more difficult for Programme promotion to be targeted at particular areas; for potential applicants to identify the Programme as an appropriate possible source of Commonwealth funding for their particular project; and for applicants and other stakeholders to distinguish between the reasons that some projects are funded and others are not. In this context, the ANAO Administration of Grants Better Practice Guide advises:

> The more specific the objectives, the easier it is to develop selection criteria, limit wasted applications and develop an appropriate performance information framework.
>
> Operational objectives for the program should include quantitative, qualitative and milestone information or be phrased in such a way that it is clear when

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[538] DOTARS, Regional Partnerships Guidelines, July 2007.

> these objectives have been achieved. Adequate information will then be available on which to base future decisions for continuing or concluding the program. The operational objectives of the program should be restated regularly and whenever changes are made to the program.[539]

Performance information framework

5:1.6 A key component of successful grants management is that the performance information framework be complemented by a programme evaluation strategy that assists with the agency's management of grants and provides adequate performance information for external accountability.[540]

5:1.7 In this context, the foundation for agency accountability and transparency is performance information presented initially in Portfolio Budget Statements (PBSs), with results being reported later in annual reports.[541] As part of this framework, effectiveness indicators are necessary to demonstrate the extent to which outputs and/or administered items make positive contributions to specified outcomes.[542] In addition, agencies are required by guidelines issued by the Department of Finance and Administration to develop price, quantity and quality indicators for outputs to be reported in their PBSs and annual reports.[543] Table 5:1.1 outlines the performance indicators identified for the Regional Partnerships Programme over its first five years.

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[539] ANAO Better Practice Guide-Administration of Grants, op. cit., p. 9.

[540] ANAO Audit Report No.47 2005–06, *Funding for Communities and Community Organisations*, Canberra, 21 June 2006, p. 74.

[541] ANAO *Better Practice Guide—Performance Information in Portfolio Budget Statements*, May 2002, Canberra, p.1.

[542] ibid., p.17.

[543] ibid., p.21.

Table 5:1.1

Programme Performance Indicators: 2003–04 to 2007–08

Indicator Type	2003–04	2004–05	2005–06	2006–07	2007–08
Effectiveness	Communities have improved growth and opportunities, access to services, support for planning, and assistance in structural adjustment.		Funded projects improve regional growth and opportunities, access to services, planning and structural adjustment.		
Quality	Clients are satisfied with the programme.		Regional priorities are established by an ACC in each region.		
			90% of applications for funding are assessed within 12 weeks of submission. Grants are provided for projects which meet programme guidelines, including consistency with ACC regional priorities and partnership funding. Payments are made in line with project progress and Funding Agreements.		
			90% of project proponents and ACCs are satisfied with the programme's administration.		
Quantity	Number and geographic spread of grants approved.		Regional priorities and projects are established in every region of Australia (56 regions).		Projects are established in every region of Australia (56 regions).
Location	Regional, rural and remote Australia.	Australia's regions.			
Cost	$99.1 million	$90.8 million	$111.6 million	$77.2 million	$72.4 million

Source: Transport and Regional Services Portfolio, Portfolio Budget Statements 2003–04 to 2007–08.

Senate Committee

5:1.8 In the report of its inquiry into the Regional Partnerships Programme, the Senate Committee raised concerns in relation to the specification, assessment and measurement of project outcomes, both in relation to individual projects and in respect of overall programme performance. For example, the Senate Committee noted shortcomings in the presentation of outcomes and performance measures, observing in relation to the Tumbi Creek Dredging project that:

> it is inappropriate that applications with the paucity of budget detail and inadequate project implementation plans and performance measures described above were accepted by the Government.[544]

5:1.9 More broadly, in relation to overall Programme outcomes, the Senate Committee commented as follows:

> The [*ANAO*] Better Practice Guide also states that the objectives of the program must be clearly documented and communicated to all stakeholders… However, the RP program has four extremely broad objectives, which are as follows:
>
> - Strengthening growth and opportunities
> - Improving access to services
> - Supporting planning
> - Assisting in structural adjustment
>
> The Committee does not accept DOTARS' claim that these objectives meet the ANAO Better Practice Guide's principle of defining operational program objectives. The Committee considers it imperative that the RP program objectives be made specific to enable the meaningful evaluation of the program.[545]

5:1.10 The Senate Committee's recommendations included that the Government negotiate with each ACC in relation to key performance indicators.[546] The November 2006 Government response agreed in part with this recommendation, commenting that effective measurement of ACC performance requires a national set of indicators. The Government response to

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[544] Senate Committee Report, op. cit., p. 93.

[545] ibid., p. 39

[546] ibid., p. 204.

this recommendation also drew attention to the then Minister's 15 November 2005 announcement (as part of a broader announcement of changes to the Regional Partnerships Programme) that clearer guidance would be provided on the kinds of projects that would be approved.[547] This was to be achieved as follows:

> The Minister [*for Transport and Regional Services*] will provide written advice and guidelines each year to ACCs outlining the Government's broad policy priorities for the Regional Partnerships program, along the lines of that which is currently provided to the Research and Development Corporations.[548]

5:1.11 The revised Programme Guidelines that were finalised and issued in July 2006 included the same Programme objectives as had previously been identified, but with a different presentation and additional descriptive text. The revised Guidelines also included information on the Government's priorities for 2006–07 (see Figure 5:1.1). The Guidelines stated that applications are not limited to these priorities but that the Government expects that ACCs will put forward applications which address at least some of these priorities.[549] In his speech to the 2007 ACC Conference held in May 2007, the Minister for Transport and Regional Services announced that the Ministerial Committee had confirmed that these four priorities would remain in place for 2007–08.[550] In this speech, the Minister also stated that he would like to see commercial projects becoming an increasing focus of the Regional Partnerships Programme.

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[547] The Hon Warren Truss MP, Minister for Transport and Regional Services, *Changes to Make Regional Partnerships Stronger*, Media Release 051WT/2005, 15 November 2005, p. 1.

[548] ibid., Attachment, p. 1.

[549] DOTARS, Regional Partnerships Guidelines, July 2006 p.2.

[550] The Hon Mark Vaile MP, Minister for Transport and Regional Services, *2007 Area Consultative Committees Conference*, op. cit.

Figure 5:1.1

Programme Funding Priorities: 2006–07

Small or Disadvantaged Communities: Small communities and communities suffering economic or social disadvantage have the potential to be overlooked. These communities are particularly encouraged to develop projects that can address inadequacies in local community infrastructure and services.

Economic Growth and Skill Development: There is opportunity under the program to contribute to job creation and employment-related skill development, which are fundamental to a community's economic and social wellbeing, particularly in areas of lower employment growth or where the challenges of industry change or skill shortages are being experienced. *Regional Partnerships* applicants are encouraged to develop projects that will contribute to the creation of ongoing, sustainable jobs and to the development of job skills where these activities are not wholly funded by other government agencies.

Indigenous Communities: Indigenous communities are amongst the most disadvantaged in Australia. The Government is seeking ways in which the needs of these communities can be better met. These communities are encouraged to develop projects that are tailored to address their unique circumstances. Applications that assist Indigenous communities to make use of *Shared Responsibility Agreements* and demonstrate consultation with Indigenous Coordination Centres are encouraged.

Youth: Supporting leadership capabilities of young people is recognised as one of the cornerstones for building community capacity. Projects are encouraged that help young people to become more capable and involved members of their communities, support youth leadership and address the needs of youth in their region.

Source: Regional Partnerships Programme Guidelines, July 2006, p. 1.

Content of this part of the audit report

5:1.12 This part of the audit report is structured having regard to the performance indicators for the Regional Partnerships Programme.[551] Specifically:

- Chapter 2 examines appropriation funding and management of Programme expenditure, including as it relates to the 'cost' performance indicator, as well as the 'quality' indicator first adopted in 2005–06 relating to whether payments are made in line with project progress and Funding Agreements;

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[551] The one exception is the quantity indicator that grants are provided for projects that met partnership funding expectations. Analysis relevant to this indicator is included in Part 3 of this report relating to Partnerships and Support.

- Chapter 3 includes audit analysis of the number and location of Regional Partnerships grants, and examines the effect of existing Programme promotion and application processes in this area;[552] and
- Chapters 4 and 5 are focused on the effectiveness indicator. Specifically:
  - Chapter 4 examines the administrative framework for monitoring progress by funding recipients in undertaking projects for which Regional Partnerships funding has been approved; and
  - Chapter 5 assesses the extent to which funded projects are delivering the outcomes that were intended to be obtained from the provision of Regional Partnerships funding, as measured by data obtained from funding recipients through the Funding Agreement framework.

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[552] Aspects of the 'quality' indicator relating to assessment timeframes and the extent to which approved grants were assessed as meeting Programme Guidelines and/or were supported by ACCs are examined in Part 2 of this audit report relating to Application Assessment and Approval Processes.

5:2 Appropriation Funding and Management of Expenditure

This chapter examines the payment of administered funds appropriated for expenditure on Regional Partnerships grants.

Introduction

5:2.1 Funding flexibility was a concern in the design of the Regional Partnerships Programme. Specifically, the Programme was intended to provide the capacity to fund a broad range of project types and funding recipients from within a single, ongoing funding source, as follows:

> Future appropriations should be ongoing, as currently for [*the Regional Assistance Programme*], to avoid the regular creation of additional programmes and the associated costs as priorities change, and negative client perceptions of programme effectiveness.
>
> Current programme appropriations should be subsumed into the new on-going appropriation/s. This would include [*Regional Assistance Programme's*] ongoing appropriation of about $38 million, which includes the current ACC operational funds of about $13 million. Retaining the ACC operational funding within the package's appropriation increases the flexibility within the package. However for this paper the ACC funds have been dealt with separately.
>
> Other issues are the number of appropriations across the package, and the inclusion of the ACC network's funding within the package. Currently each of the ten programmes has its own appropriation, with no ability to transfer funds across programmes to meet changing needs and/or priorities. The new regional approach addresses this by establishing a single package with four priorities, rather than separate programmes. This allows funding to be transferred across the package to meet changing needs or priorities, but only where there is a single appropriation. This would also provide ease of financial management.
>
> Additional appropriations limit this flexibility, but may also limit calls for efficiency dividends, or for funding large–scale projects beyond the programme's objectives.

5:2.2 It was ultimately agreed that the integrated regional grants programme would operate through a single administered annual appropriation. This was given effect through the 2003–04 Budget process.

Managing funding commitments

5:2.3 FMA Regulation 10 prohibits the approval of a spending proposal that is not fully supported by an available appropriation (either in an Act or proposed in a Bill before the Parliament), unless the Finance Minister has given written authorisation for the approval.[553] Where it is required, the Regulation 10 authorisation must be obtained before approving the spending proposal.[554]

5:2.4 FMA Regulation 10 is an important statutory obligation.[555] It exists to help enable the government to manage the extent to which commitments to spend public money are entered into where funds have not yet been appropriated. This manages the 'lock-in' of future Budgets by the government of the day. In addition, in September 2007, Finance advised ANAO that Regulation 10 is considered to support the requirements of section 83 of the Constitution.[556]

5:2.5 The Finance Minister has, subject to specified limits and conditions, delegated to agency Chief Executives authority to authorise the approval of a spending proposal for which money is not appropriated. Spending proposals that exceed the terms and limits of this delegation must be put to the Finance Minister for authorisation.

5:2.6 A revised Regulation 10 delegation from the Finance Minister commenced on 1 October 2003. Among the changes made to the delegation were the introduction of explicit requirements relating to:

- delegates ensuring that a written record was kept of their consideration of the matters prescribed in the delegation, and any other factors, in deciding whether or not to authorise an approver to approve a spending proposal; and

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[553] Department of Finance and Administration, Finance Circular No.2007/01, *FMA Regulation 10*, 21 June 2007, p. 1.

[554] In this respect, it is important to recognise that a government decision, including a decision of Cabinet or a Minister, is not an alternative to the Finance Minister's written authorisation under FMA Regulation 10. Further, the authorisation required under the statutory provisions of Regulation 10 is separate from, and additional to, the government's policy requirement that the Finance Minister's approval be obtained prior to awarding and announcing a multi-year grant (currently defined as projects involving more than $2 million over a period longer than 36 months).

[555] Finance Circular No.2007/01, op. cit., p. 6.

[556] Section 83 of the Constitution provides that no money shall be drawn from the Treasury of the Commonwealth except under an appropriation made by law.

- delegates providing the Finance Chief Executive with six monthly reports describing each proposal authorised under the delegation.

5:2.7 A further revision of the Finance Minister's delegation took effect on 1 July 2007. This amended delegation was expanded to allow agency officials to authorise the commitment of 100 per cent of an agency's forward estimates up to the third forward year and, with the agreement of the responsible Minister, amounts up to 20 per cent of each years' forward estimate for up to ten years for administered spending proposals and 16 years for departmental spending proposals. This is intended to streamline spending proposal approval processes by increasing the number of Regulation 10 authorisations that can be provided by agency Chief Executives (or their delegates).[557]

Relevance to Regional Partnerships Programme

5:2.8 In order to ensure compliance with the terms of Regulation 10 in relation to Regional Partnerships spending proposals, it would be necessary for DOTARS to:

- identify whether a Regulation 10 authorisation was required for each project as it was submitted for Ministerial consideration, by identifying whether there was sufficient, uncommitted appropriation available for the proposed expenditure; and
- where a Regulation 10 authorisation was required, provide a written authorisation for the Minister to approve the spending proposal or, where the expenditure would involve commitments beyond the limits of the delegation or a delegation was not available, obtain the Finance Minister's written authorisation prior to submitting the application for Ministerial consideration.

5:2.9 An appropriation is available for Regulation 10 purposes only when it is not already committed.[558] Accordingly, to promote compliance with Regulation 10, it is important that agencies have in place procedures to monitor and manage commitments against available appropriations. In this respect, DOTARS has had systems and procedures in place to monitor commitments and expenditure against that part of its Outcome 2 administered annual appropriation that has been allocated to the Regional Partnerships

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[557] Advice to Chief Executives from Secretary, Department of Finance and Administration, 22 June 2007.

[558] Department of Finance and Administration, Finance Circular 2004/10, *Using the Financial Management and Accountability Regulation 10 Delegation*, 6 August 2004, p. 5.

Programme. The department has also regularly advised Ministers of expenditure and commitments against appropriations, particularly in the context of seeking to maximise Programme expenditure.

5:2.10 However, for much of the Programme, the department had not addressed the requirements of Regulation 10 in its administration of the decision-making process. In particular:

- from 1 October 2003, the Finance Minister's Regulation 10 delegation could only be exercised in respect to an administered appropriation item in accordance with the conditions and limits specified in a determination of the Finance Minister. However, a determination in respect to the appropriation item relating to Regional Partnerships was first made by the Finance Minster on 30 August 2004. Accordingly, prior to that date it was not possible for any DOTARS official to give Regulation 10 authorisation for the approval of a Regional Partnerships spending proposal. In those circumstances, the Finance Minister's written authorisation was required before a Minister could approve relevant grants. DOTARS did not seek, or obtain, such authorisation from the Finance Minister in respect to any Regional Partnerships grants; and
- between 30 August 2004 and 30 June 2007, under the terms of the Finance Minister's determination (as amended), DOTARS officials could authorise the approval of Regional Partnerships applications involving expenditure in future years up to the limits identified in Table 5:2.1. However, arrangements were not put in place to manage the Regulation 10 delegation in respect of the Regional Partnerships Programme. In the reports submitted to Finance to 30 June 2006, DOTARS did not report a single instance of a departmental official exercising the Regulation 10 delegation from the Finance Minister to authorise the approval of a Regional Partnerships grant.

Table 5:2.1

Limits to expenditure commitments that could be authorised under FMA Regulation 10 determination: 30 August 2004 to 30 June 2007

Next Budget Year	Forward Year 1	Forward Year 2	Forward Year 3
40%	20%	10%	0%

Source: Determination under *Financial Management and Accountability (Amendments relating to Regulation 10) Delegation 2003,* No. 2004/11, 30 August 2004.

5:2.11 ANAO examined all Ministerial decisions on Regional Partnerships grant applications between 1 July 2003 and 30 June 2006. ANAO's analysis identified a total of 696 projects that, based on the project duration advised to the Ministerial decision-maker(s), involved proposed expenditure for which there was not available appropriation at the time of Ministerial consideration. As a result, a written Regulation 10 authorisation was required before the Ministerial decision-maker(s) could consider the approval of funding for those projects for the purposes of Regulation 9 (and any resulting Funding Agreement could be properly entered into for the purposes of Regulation 13). On no occasion was the necessary written authorisation provided by a departmental official, as delegate of the Finance Minister, or obtained from the Finance Minister prior to the Ministerial consideration of the spending proposal.

5:2.12 Of those projects, 487 were approved for funding without the necessary Regulation 10 authorisation, involving Regional Partnerships expenditure totalling $110.402 million (plus GST).[559] The approval of grants without the necessary Regulation 10 authorisation continued throughout 2006–07.

5:2.13 In October 2006, the Finance Minister made a standing Regulation 10 authorisation for the Regional Partnerships Programme. In July 2007, the Minister for Transport and Regional Services advised the Finance Minister that that authorisation was based on legal advice provided at that time which indicated that the department was exercising the role of spending approver at the point at which it signed a Funding Agreement with a project proponent. However, as noted in Part 2 of this audit report, the role of approver under the FMA Regulations of spending proposals relating to the Regional Partnerships Programme is undertaken by Ministers. Accordingly, to enable future compliance with FMA Regulation 10, on 13 July 2007, the Minister for Transport and Regional Services sought an authorisation from the Minister for Finance and Administration under FMA Regulation 10 to give the Transport and Regional Services portfolio Minister authorisation to approve future Regional Partnerships spending proposals.

5:2.14 In seeking the authorisation, the Minister for Transport and Regional Services had proposed that Ministers be authorised to approve projects

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[559] A Funding Agreement was not ultimately executed in all cases. For example, three of these projects were withdrawn by the applicants subsequent to the Minister approving funding. In other cases, there have been delays in reaching the Funding Agreement stage.

without a specified limit, on the proviso that DOTARS manages actual payments under the Programme within the relevant appropriations. This request was made to:

> …address the unique design and circumstances faced by the Regional Partnerships Programme. These unique characteristics include:
>
> - an ongoing approval process (without rounds) by a Ministerial Committee which approves projects, subject to my Department negotiating a satisfactory Funding Agreement with the applicant;
> - variable delays in recipients entering into Funding Agreements (for instance, while applicants confirm co-funding contributions, obtain development approvals, or even decide not to proceed with the project); and
> - variable slippage against milestones for contracted projects (for instance, due to construction delays in remote locations due to skills shortages or impacts of severe weather events).

5:2.15 On 23 August 2007, the Finance Minister provided an authorisation under FMA Regulation 10 to the Ministers responsible for regional development to consider approving spending proposals in relation to the Regional Partnerships Programme. In providing this authorisation, among other things the Finance Minister proposed that DOTARS and Finance review the arrangement within the next year in the light of experience, to determine whether the arrangements continue to be appropriate, and to revisit the question of a monetary limit for the authorisation.

Programme expenditure

5:2.16 Between 2003–04 and 2006–07, total funding of $409.676 million was allocated through administered annual appropriations to the Regional Partnerships Programme for expenditure on grants and payments to ACCs. In that period, total actual expenditure was $327.934 million, a shortfall of $81.742 million (20 per cent) against the available funds. In this respect, as illustrated by Table 5:2.2, there were significant under-spends of the available allocated appropriation funding in each of the first four years of the Programme's operation. As is discussed further below, the level of under-expenditure would have been significantly greater had DOTARS not adopted various strategies to increase Programme expenditure.

Table 5:2.2

Programme expenditure against appropriations: 2003–04 to 2006–07 ($m)

	2003–04	2004–05	2005–06	2006–07	Total
Administered expenses:					
Portfolio Budget Statement	99.099	90.801	111.625	94.114[A]	395.639
Add: additions included in Portfolio Additional Estimates Statement	1.407	12.630	Nil	Nil	14.037
Total appropriation available	**100.506**	**103.431**	**111.625**	**94.114**	**409.676**
Reported actual expenditure	**78.457**	**94.967**	**83.710**	**70.800**[B]	**327 934**
Excess of appropriation over expenditure	**22.049**	**8.464**	**27.915**	**23.314**	**81.742**
	22%[C]	**8%**	**25%**	**25%**	**20%**

Notes:

[A] For comparative purposes, this figure includes both the Regional Partnerships grants programme and the ACC programme. Prior to 2006–07, administered expenses reported in the Portfolio Budget Statements and Portfolio Additional Estimates Statements for the Regional Partnerships Programme included expenses relating to ACCs. In the 2006–07 Portfolio Budget Statements, administered expenses relating to the ACCs was separately reported (as $16.964 million for 2006–07 in both Statements).

[B] Actual expenditure as published in the 2006–07 Annual Report (pp. 180 and 187). Earlier years used the actual expenditure figure published in the Portfolio Additional Estimates Statements.

[C] DOTARS has reported on its performance in spending appropriated funds in its Annual Reports. Similar to the above figures, the department's reporting of expenditure against budget was to have involved comparing actual expenditure for the year to the revised budget published in the Portfolio Additional Estimates (see p. 203 of the 2003–04 Annual Report, p. 111 of the 2004–05 Annual Report and p.125 of the 2005–06 Annual Report). However, the 2003–04 Annual Report incorrectly used a figure of $90.944 million as being the revised budget; the correct figure was $100.506 million—the $90.944 million figure was the estimated actual expenditure for 2003-04 at the time of the May 2004 Budget. This error resulted in the Programme under-spend for 2003–04 being incorrectly reported in the 2003–04 Annual Report as being 13.7 per cent rather than 21.9 per cent.

Source: ANAO analysis of Transport and Regional Services portfolio Portfolio Budget Statements and Portfolio Additional Estimates Statements

Re–phasings

5:2.17 Prior to the implementation of accrual budgeting in 1999, all annual appropriations lapsed at the end of each financial year.[560] However, recognising that agencies often had unspent funds at the end of the year because of various timing issues, processes existed under cash-based appropriations for 're-phasings' in which an amount agreed with the then

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[560] This was achieved by section 36 of the *Audit Act 1901* and then, from the commencement of the *Financial Management and Accountability Act 1997*, by a clause in each annual Appropriation Act.

Department of Finance could be added to the next available annual appropriation bill, often at Additional Estimates, in order to provide the relevant agency with an appropriation authority to spend those funds.

5:2.18 Notwithstanding these re-phasing arrangements, there remained a culture in some entities of expediting the payment of funds as 30 June drew near so as to reduce the amount of any unspent appropriation. In this respect, a number of ANAO performance audit reports have identified the cost and risk to the Commonwealth of accelerating expenditure so as to spend appropriated funds. For example, Audit Report No. 37 1999–2000, *Defence Estate Project Delivery* stated:

> Acceleration of expenditure to ensure that appropriations are spent may meet the perceived needs of Defence but is to the disadvantage of the Commonwealth and the taxpayer. Accelerated expenditure has an opportunity cost equivalent to the Commonwealth's marginal cost of capital and should not be considered unless it has an equivalent benefit to the Commonwealth.[561]
>
> …There is an opportunity cost associated with making payments before they need to be paid and, of course, added risk. These advance payments could have been used to repay Commonwealth debt or alternatively to gain interest income for the Commonwealth. It is clear that these payments were to help DEO avoid having to report an underspending of its allocation of the Defence budget appropriations allocated to DEO. Payments made to contractors earlier than required are not in the Commonwealth's budgetary or contractual best interests.[562]

5:2.19 In this context, the current financial framework takes a different approach to the lapsing of appropriations for departmental outputs compared to administered items, as follows:

- departmental outputs appropriations do not lapse, with unspent amounts remaining available to be spent in later years; whereas
- administered expense appropriations that have not been expensed in the financial year in which they were appropriated cannot be spent in later years. This is achieved through a process whereby the Finance Minister may limit the amount which may be issued from an administered expense appropriation item by making a determination.

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[561] ANAO Audit Report No.37 1999–2000, *Defence Estate Project Delivery*, Canberra, 4 April 2000, p. 50.

[562] ibid., p. 52.

> The Appropriation Acts require[563] that, in making the determination, the Minister takes into account the amount of expenses incurred during the year against each outcome for each type of administered expense appropriation.

5:2.20 Once lapsed, unspent administered appropriations are no longer available to the relevant department. However, a process does exist whereby entities can seek to have their Minister request the Finance Minister's agreement to some or all of the unspent appropriation relating to a particular programme being re-phased—that is, added to the programme's appropriations for a future financial year or years in forthcoming annual Appropriation Acts.

5:2.21 In this context, one consequence of the continuing Regional Partnerships Programme under-spends has been the need for DOTARS to seek significant re-phasings of appropriated funds in each of the financial years in which the Programme has operated to date. In aggregate, up to the end of 2006–07, of the $81.742 million in Programme under-spends, $50.549 million (62 per cent) had been re-phased to later financial years.

5:2.22 Initially, Programme under-spends against the available appropriation were fully re-phased into later years. For example, the 2004–05 Portfolio Budget Statements produced in May 2004 reported estimated actual Programme expenditure for 2003–04 of $90.944 million against an available appropriation of $100.506 million. The 2004–05 Budget included a full re-phasing of the expected 2003–04 expenditure shortfall of $9.562 million into the 2004-05 appropriation allocated to the Programme. A further shortfall in expenditure against the 2003–04 appropriation of $12.487 million was identified following the end of the financial year. This amount was also re-phased in full in the 2004–05 Additional Estimates process across three financial years—$0.797 million to the 2004–05 appropriation and $5.845 million to both 2005–06 and 2006–07.

5:2.23 In subsequent years, however, not all of the expected shortfall in expenditure against the Regional Partnerships Programme allocation has been re-phased, with the re-phasings that have taken place occurring over a longer period of time. Specifically:

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[563] See, for example, Section 8 of *Appropriation Act (No. 1) 2007–2008*.

- in February 2005, the then Minister for Transport and Regional Services sought agreement from the Minister for Finance and Administration to a re-phasing of expected appropriation under-spends in 2004–05 of $16.509 million.[564] The 2005–06 Portfolio Budget Statements disclosed that $2.200 million was re-phased from 2004–05 to 2007–08, 13 per cent of the amount requested[565];
- in early 2006, the then Minister for Transport and Regional Services sought agreement for a movement of $26.9 million in funds from 2005–06 to 2006–07 and later years. Agreement was given to a movement of $16.9 million in funds (63 per cent of the amount requested). No funds were moved to 2006–07 but funds were re-phased to 2007–08 ($5.9 million), 2008–09 ($6.0 million) and 2009–10 ($5.0 million); and
- in the 2007–08 Budget process, $7.200 million of the $9.625 million in estimated unspent appropriation for 2006–07 was re-phased, with $3.700 million being moved to 2007–08, $2.000 million to 2008–09 and $1.500 million to 2009–10.[566] In its 2006–07 Annual Report, DOTARS stated that the total amount re-phased from 2006–07 to later years was $9.4 million.[567]

5:2.24 The expenditure, lapsing and re-phasing of allocated Regional Partnerships Programme appropriations in the financial years 2003-04 to 2006-07 is illustrated by Figure 5:2.1.

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[564] This figure was comprised of $14.309 million for Regional Partnerships projects, principally relating to election commitments, and $2.200 million for the Weipa Electricity Generation Compensation Package.

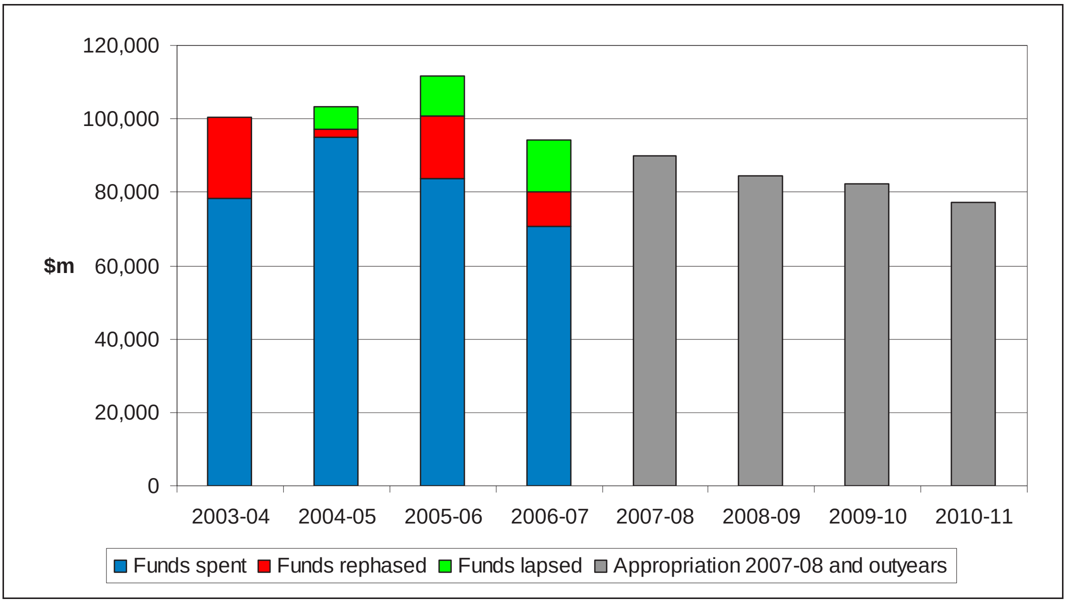
[565] Transport and Regional Services Portfolio, *Portfolio Budget Statements 2005–06*, Budget Related Paper No. 1.15, p. 18.

[566] Transport and Regional Services Portfolio, *Portfolio Budget Statements 2007–08*, Budget Related Paper No. 1.16, p. 16.

[567] DOTARS Annual Report 2006–07, p. 187.

Figure 5:2.1

Expenditure, lapsing and re-phasing of appropriations allocated to the Regional Partnerships Programme



Source: ANAO analysis of Transport and Regional Services Portfolio Budget Statements and Portfolio Additional Estimates Statements. Note: funds spent for 2006–07 is the actual published in DOTARS 2006–07 Annual Report. Funds spent figures for earlier years are actual figures published in the following year's Portfolio Additional Estimates Statements.

Expedited assessments and making payments in advance of need

5:2.25 In light of the significant expected under-spend against the 2003–04 Regional Partnerships Programme appropriation allocation, in March 2004 the Government requested a review of the Programme to examine options to improve the efficiency of Programme administration and ensure that appropriated funds were more fully expended each year.[568] In addition,

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[568] The conduct of the review was deferred pending completion of the Senate inquiry into the Programme. The report of this review, presented as part of the departmental submission to the 2006–07 Budget, identified two possible reasons for under-expenditure, as follows:

- complex assessment and decision-making processes had impacted on the approval and commencement of new projects, and therefore new expenditure. DOTARS expected that the more streamlined assessment and decision-making processes announced by the then Minister in November 2005 would improve expenditure against budget from 2006–07; and
- initial and subsequent project payments can be delayed because projects are unable to stay on schedule after they receive approval, for reasons such as difficulty employing appropriately skilled personnel (such as builders), or the impacts of weather on site access in places in remote northern Australia.

continuing under-spends, but reduced agreed re-phasings, have been reflected in increased attention by DOTARS and the Ministerial Committee on project approval and expenditure levels.

5:2.26 DOTARS has adopted various strategies to increase Programme expenditure. This has included seeking to reduce the time taken to undertake assessment processes in order to ensure that there are sufficient approved projects to enable contracting and expenditure of allocated appropriations.[569] In this context, the extent and rigour of the department's due diligence procedures are examined in the Part 3 of this audit report relating to Partnerships and Support and Part 4 relating to Identifying, Assessing and Managing Viability Risks.

5:2.27 In addition, following consideration of a number of ANAO case studies of approved Regional Partnerships projects, in April 2007 DOTARS acknowledged to ANAO that it has had a practice of making payments of Regional Partnerships funds in advance of project needs. In this respect, in the sample of 180 approved projects examined by ANAO for which a Funding Agreement had been executed, there were periodic increases in the quantum and number of payments being made. As Figure 5:2.2 illustrates, the most significant peaks in payment activity occurred in the latter part of each of the three financial years covered by the period examined. Specifically, the focus on maximising expenditure by the end of each financial year is evident in both the number and quantum of payments made late in the financial year.

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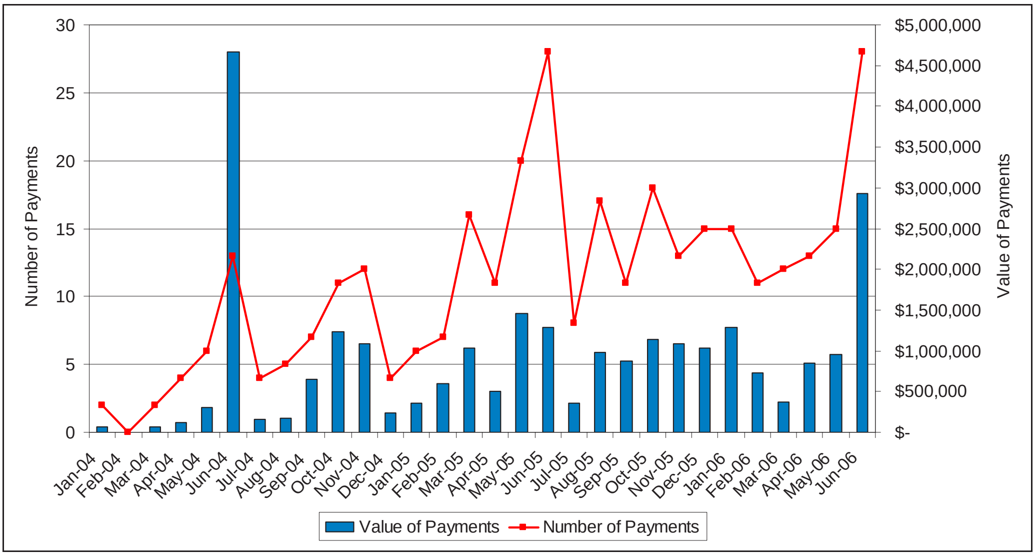
[569] For example, at both of its March 2006 and April 2006 meetings, the Ministerial Committee was advised by DOTARS that:

> 'The time taken for completion of assessments has been outside the target time with assessment taking on average 120 days rather than the target time frame of 70 days. This is now being addressed through the move to the single assessment process which commenced on 13 March 2006. The current average time taken by the Ministerial Committee to take a decision on a project is 32 days.
>
> If we are to meet expenditure of the program's revised available funds the time taken to undertake these processes will need to be reduced.'

Figure 5:2.2

Amount and number of payments for audit sample projects



Source: ANAO analysis of DOTARS records.

5:2.28 The periodic increases in Programme expenditure had been underpinned by practices that involved:

- structuring Funding Agreements to make payments in advance of the need identified by the funding recipient in its application for funding (based on planned project milestones and other funding sources). The amount of the first instalment of Regional Partnerships funding had almost invariably represented a substantial proportion of the total funding approved for the project regardless of the proportion of total project costs that the Regional Partnerships funds represented; and
- making payments to funding recipients notwithstanding that Funding Agreement pre-conditions applying to those payments had not been satisfied (including satisfaction of pre-conditions on the first instalment such as confirmation of co-funding or building approvals and, for later payments, adequate acquittal of the expenditure of earlier instalments).

5:2.29 In December 2006, DOTARS advised ANAO that, as part of improvements being made to the Programme, it had undertaken extensive training of over 120 staff from all Regional Offices and relevant staff from its National Office on the process of negotiating and executing a Funding Agreement. The department further advised ANAO that one of the key messages it had reinforced in that training was that payments should not be made in advance of need.

5:2.30 It is important to underline this latter message as, for some Programmes, there can be pressure to spend budgeted allocations in advance of need in order to maximise expenditure in a given financial year. This was evident in the advice provided by DOTARS to the Ministerial Committee at its May 2006 meeting that:

> Strategies and work in hand to expend the balance of $18.3 million before the end of the 2005-06 financial year are:
>
> …
>
> 2. Funding agreements are being negotiated on uncontracted and recently approved projects. Assuming a 40% first payment where agreements are finalised and applicants are ready to implement their projects without delay, payments are estimated at $6.7 million…
>
> 3. There are 10 projects with Ministers for approval that could be contracted as a high priority and implemented quickly if approved. First payments of 40% for this group of projects would total $1.4 million.
>
> 4. There are 3 or 4 high value projects currently under assessment we are targeting where 40% first payments could be made if the relevant steps of completing a brief to Ministers, approval and contracting can be completed within the next 2 weeks. This group has the potential to add up to $1 million to the program spend for this financial year if required.

5:2.31 In this context, by way of example, one of the Funding Agreements being finalised at the time the above advice was provided to the Ministerial Committee related to RP01758 Geraldton Marine Service Centre. This project involves the establishment of a marine service precinct in Geraldton, Western Australia centred on a 200 tonne heavy boat lifter. The then Minister had approved funding of $980 000 (plus GST) for this project on 15 September 2005, to be used towards the purchase of the boat lifter.

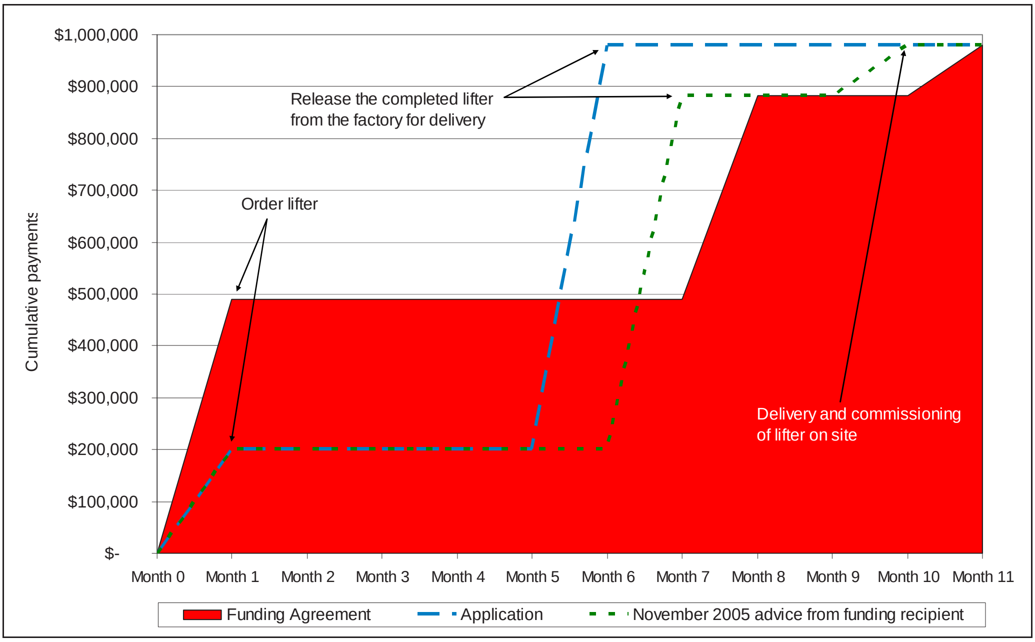
5:2.32 The January 2005 Regional Partnerships application had sought a payment of $200 000 (plus GST) upon approval of funding in order for the lifter to be ordered. On 10 November 2005, the funding recipient further advised DOTARS of its proposed milestone payment arrangements for the use of Regional Partnerships funds to purchase the boat lifter. As illustrated by Figure 5:2.3, the project milestones and associated payment arrangements proposed by the funding recipient in November 2005 were broadly consistent with its Regional Partnerships application. However, on 30 May 2006, when finalising the Funding Agreement for signature, DOTARS' Western Australia Regional Office advised the funding recipient that:

> I have also made a couple of changes to the schedule, namely increasing the first payment to 50 per cent ($539 000 GST inclusive). If you can send a tax invoice for this amount back with the signed agreements, we can make the first payment immediately—it will be a great help for us in getting close to our expenditure target for the year.

5:2.33 In this respect, as illustrated by Figure 5:2.3, in order to achieve annual expenditure targets, DOTARS accelerated the initial spending in relation to this project beyond that required by the funding recipient. Specifically, the initial payment to enable order of the lifter was increased to $490 000 (excluding GST), 145 per cent more than the $200 000 in funds sought by the funding recipient to finance ordering of the lifter.

Figure 5:2.3

Payments proposed and contracted for RP01758 Geraldton Marine Service Centre project by DOTARS compared to milestone requirements identified by funding recipient



Source: ANAO analysis of Regional Partnerships application, Funding Agreement and November 2005 advice to DOTARS from funding recipient.

Structuring of Funding Agreement first instalment payments

5:2.34 As is advised in the ANAO Administration of Grants Better Practice Guide, in selecting funding strategies for a grants programme, care should be taken to consider sound cash management principles (including those set out in ANAO's Cash Management in the Commonwealth Public Sector Better Practice Guide (1999)). In particular:

> large amounts should not be paid in advance because of the risk of non-performance of obligations, or non-compliance with the terms of a grant.
>
> Where payments are made in advance there should be a net benefit in doing so. The net benefit could be demonstrated by:
>
> - comparing the cost of administering payments in arrears to interest foregone;
> - efficiencies for the recipient in either reducing the time to complete the project or funds required (possibly linked to reducing the amount of funding as these benefits are realised); or
> - establishing that the funded activity would not proceed at all or in a timely fashion without payment in advance.
>
> A comprehensive documented risk assessment and cost benefit analysis will assist in establishing that payment in advance of need was warranted or not. In general, performance reporting and monitoring regimes will be more rigorous for grants where payments are made in advance of progress.[570]

5:2.35 However, the approach discussed above in relation to RP01758 has not been unusual under the Regional Partnerships Programme. Specifically, in the period examined by ANAO it had been commonplace for DOTARS to structure instalment payments in advance of the cash flow requested by applicants in their Regional Partnerships application. In particular, notwithstanding the identified cash flow needs of the project, DOTARS regularly drafted the Funding Agreement such that a significant proportion of approved funding was paid in the first instalment, often as an advance payment made shortly after the Funding Agreement has been signed. This is illustrated by Figure 5:2.4 which evidences that 83 per cent of the 180 Funding Agreements in ANAO's sample provided for at least half of total Regional Partnerships funding to be paid in the first instalment. On average, the first

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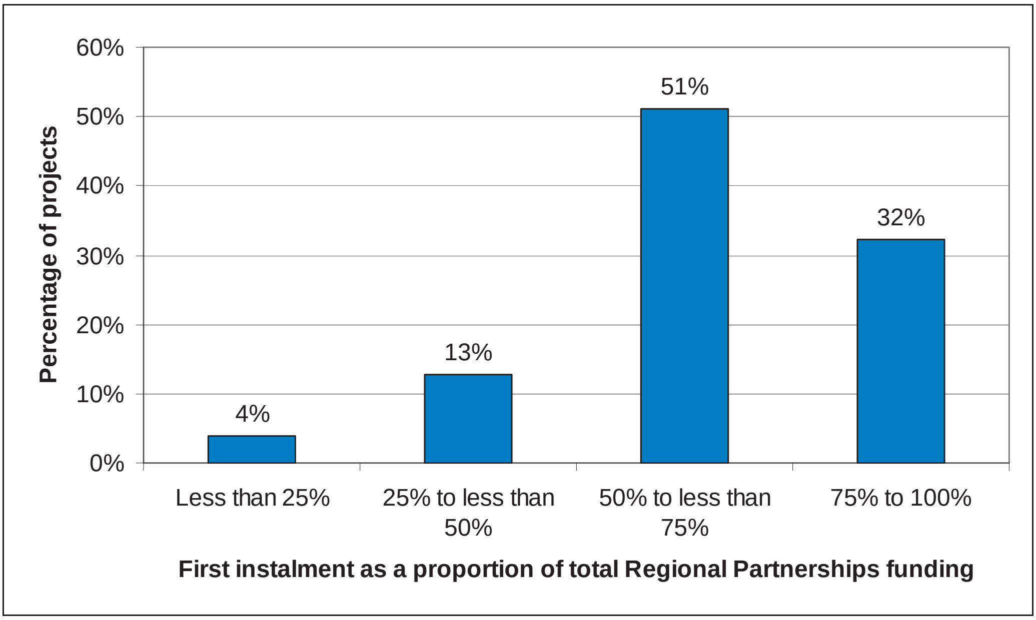
[570] ANAO Better Practice Guide-Administration of Grants, op. cit., pp. 31–32.

instalment comprised some 62 per cent of total approved funding. In this context, in its inquiry report, the Senate Committee stated in relation to RP01207 Gunnedah Grains to Ethanol that:

> The Committee was concerned to discover that the first payment of $426 800 was simply for signing of the contract between the department and Primary Energy. This is in contrast to the milestones other projects have had to achieve, even in cases involving lower amounts of grant funding.[571]

Figure 5:2.4

Structuring of Regional Partnerships Funding Agreements in ANAO audit sample: First instalment payment



Source: ANAO analysis of 180 Regional Partnerships Funding Agreements across 11 ACCs.

5:2.36 Consistent with an acute departmental focus on spending the annual appropriation irrespective of project cash flow requirements in the projects examined by ANAO, added emphasis had been given in the last quarter of each financial year examined to completing the execution of Funding Agreements for approved projects in order to allow for the first instalment to be paid by the end of the financial year. As noted, the first instalment was often a significant advance payment. There was also an increase in the number of Funding Agreements signed in ANAO's sample in the first quarter of the

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[571] Senate Committee Report, op. cit., p. 133

2004–05 year, as a consequence of the truncated assessment and accelerated approval of projects that occurred prior to the caretaker period for the 2004 Federal election.

Last quarter of 2003–04

5:2.37 The 2003–04 Budget Papers included an expense measure relating to the commencement of the Regional Partnerships Programme.[572] The Budget Papers stated that, on top of existing allocations from predecessor programmes, funding would be boosted by $61.8 million over three years from 2004–05 to 2006–07 and that provision for this funding had already been included in the forward estimates.

5:2.38 The 2003–04 Transport and Regional Services Portfolio Budget Statement indicated that $99.099 million of the Outcome 2[573] administered annual appropriation related to the Regional Partnerships Programme.[574] In the 2003–04 Additional Estimates process, the funds allocated to the Regional Partnerships Programme from within the Outcome 2 administered annual appropriation were increased to $100.506 million.[575]

5:2.39 Reported actual expenditure for the Regional Partnerships Programme for 2003–04 was $78.457 million.[576] This indicated a $22.049 million (22 per cent) shortfall against the available appropriation allocation. However, the expenditure shortfall in 2003–04 would have been even greater had DOTARS not taken steps to advance payments for a number of projects.

5:2.40 In total, 71 per cent of all Regional Partnerships projects approved for funding in 2003–04 were approved between 1 April 2004 and 30 June 2004. This trend was reflected in ANAO's sample, in which the majority of projects approved for funding in 2003–04 were approved in the last quarter of that financial year.

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[572] *Budget Measures 2003–04*, 2003–04 Budget Paper No. 2, Circulated by The Honourable Peter Costello MP Treasurer of the Commonwealth of Australia and Senator the Honourable Nick Minchin Minister for Finance and Administration for the information of Honourable Members on the occasion of the Budget 2003–04, 13 May 2004, p. 217.

[573] *Greater Recognition and Development Opportunities for Local, Regional and Territory Communities.*

[574] Transport and Regional Services Portfolio, *Portfolio Budget Statements 2003–04*, Budget Related Paper No. 1.15, p. 64.

[575] Transport and Regional Services Portfolio, *Portfolio Additional Estimates Statements 2003–04*, p. 52.

[576] Transport and Regional Services Portfolio, *Portfolio Additional Estimates Statements 2004–05*, p. 53.

5:2.41 Consistent with this, the majority of Funding Agreements executed in 2003–04 in ANAO's sample were signed in the last quarter of the financial year. Specifically, 20 of the 26 Funding Agreements in the sample that were signed in 2003–04 (77 per cent) were signed between 19 April 2004 and 17 June 2004. These Agreements involved total Regional Partnerships funding of $6.039 million (including GST), of which $4.846 million (80 per cent) was to be paid in the first instalment. This included a number of projects in respect of which DOTARS paid Regional Partnerships funds to the funding recipient ahead of the needs of the project.

5:2.42 For example, RP00833 Christmas Island Mobile Telephone Upgrade Project was approved in April 2004 for Regional Partnerships funding of $2 500 000 (plus GST) under the SONA procedures. In recommending that funding be approved, DOTARS advised the then Parliamentary Secretary that it proposed to transfer the full amount of the grant to the funding recipient, Telstra Corporation Limited, before 30 June 2004 on the basis that:

> As a government entity Telstra will be able to undertake management of the funds on behalf of the department. This is seen as an efficient, effective and low risk means of managing the funds. Progress reports will be required from Telstra under this arrangement.

5:2.43 This approach was advocated notwithstanding that Telstra Corporation's financial situation would have enabled DOTARS to have made payments in arrears.[577] Instead, the Memorandum of Understanding[578] provided that Telstra would, each two months following receipt of the Regional Partnerships funding, provide DOTARS with a written report detailing progress of the project and expenditure of the Regional Partnerships funds. Where progress was delayed or interrupted, the reports were to describe the circumstances causing any problems and remedial action taken by Telstra. Upon completion of the project, Telstra was to provide an audited statement that Regional Partnerships funds had been used for the project in accordance with the Memorandum of Understanding, or as otherwise agreed by the parties.

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[577] See paragraph 5:2.34.

[578] A Memorandum of Understanding was executed with Telstra by DOTARS in lieu of the legally enforceable Long Form Standardised Funding Agreement usually used for Regional Partnerships grants of greater than $50 000.

5:2.44 Notwithstanding that DOTARS had advised the then Parliamentary Secretary that progress reports would be required from Telstra under the arrangement involving advance payment of the full amount of $2.5 million (plus GST) prior to 30 June 2004, DOTARS did not obtain any progress reports or financial acquittal from Telstra. In May 2006, ANAO sought advice from DOTARS concerning the absence of progress reports and a project acquittal. In July 2006, DOTARS obtained from Telstra an audited acquittal for the project, dated 11 July 2006, which stated that the project had actually been completed in February 2005.

5:2.45 Expenditure was similarly expedited before the end of the 2003–04 financial year for RP00289 Australia's National Mineral Water and Bathhouse Facility, involving a major redevelopment of the bathhouse facility in the town of Hepburn Springs in Victoria. The Regional Partnerships Funding Agreement was signed on 26 May 2004. On 15 June 2004, DOTARS paid the funding recipient $450 000 (plus GST), representing 90 per cent of the approved funding. This payment was made in June 2004, notwithstanding the fact that the majority of the works involved in the redevelopment were being funded by the State Government, with the Regional Partnerships funding relating to Stage 3 of a four stage construction project. At the time the payment was made, the funding recipient had yet to complete a tender process to select a builder. DOTARS documentation examined by ANAO acknowledges that this high initial payment was made due to 'end of financial year pressures'.

5:2.46 Due to lengthy delays in commencement of the project, the funding recipient invested the Regional Partnerships funds in a high risk unit trust investment. Because of the way DOTARS structured the Funding Agreement, it has been unable to have the funds repaid until they are needed for the project, which is not expected to be until sometime late in 2007[579], more than three years after $450 000 (plus GST) was paid.

5:2.47 Similar examples of accelerated expenditure in 2003–04 within the sample examined by ANAO included:

- RP00469 Pyrenees Industrial Estate wherein $143 500 (plus GST) was provided towards the costs of establishing an industrial estate to retain

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[579] In October 2007, DOTARS provided ANAO with a copy of the most recent (30 July 2007) progress report from the funding recipient that advised that the Victorian State Government department now managing the delivery of the project was not expecting the funding recipient to start making financial contributions from the grant funds until September 2007.

existing jobs and attract new businesses to the town. Regional Partnerships funding was to be used towards the cost of surveying and legal fees ($5500), building materials ($82 800) and the building contractor ($55 200). Notwithstanding that the Regional Partnerships application stated that only $5500 in Regional Partnerships funds would be required in the first month of the project, with the remaining $138 000 not required until the seventh month, the Funding Agreement, signed on 3 June 2004 included a first instalment of 90 per cent of the grant amount. This was paid on 16 June 2004, six months earlier than the application had stated that it would be required; and

- RP00299 Deniliquin Neighbourhood Centre and Regional Social Development Group Building involving $247 000 (plus GST) in Regional Partnerships funding towards the costs of contractors and materials to renovate a building. The contractor was to be appointed by 1 July 2004 with work to be undertaken between July 2004 and January 2005. However, the Funding Agreement signed on 3 June 2004 provided that 80 per cent of Regional Partnerships funding would be paid in the first instalment. This payment was made on 16 June 2004.

5:2.48 The effect of paying funding recipients in advance of the needs of the relevant projects in order to reduce the level of Programme under-expenditure is well demonstrated by these four projects from ANAO's sample. For 2003–04, total reported Programme expenditure was $78.457 million, a shortfall of $22.049 million (22 per cent against the available appropriation). Had DOTARS structured the Funding Agreements for just these four projects in line with project cash flow needs, only $5500 of the $3 276 750 in first instalment payments would have been paid in 2003–04. Accordingly, leaving aside similar examples in ANAO's sample relating to smaller grants and any further such instances in relation to projects from ACCs not in ANAO's sample, the shortfall in Programme expenditure for 2003–04 against the available appropriation would have been $25.320 million (25 per cent), compared to the achieved under-spend of 22 per cent.

Accelerated approvals prior to the 2004 caretaker period

5:2.49 The caretaker period for the 2004 Federal election commenced at 5:00 pm on 31 August 2004. In this context, 36 per cent of projects approved in 2004–05 were approved for funding between 1 July 2004 and 4:16 pm on 31 August 2004. Further, in the five months between 1 April 2004 and 31 August 2004, a total of 336 projects were approved for funding. This was more projects than were approved for the full 2003–04 year (276 projects) or for the full 2005–06 year (312 projects). It was only marginally less than the 393 projects approved for the 2004–05 year. In this respect, in the report of its inquiry, the Senate Committee noted that:

> The number of project applications and quantity of grants approved was not uniformly spread throughout the period to December 2004. As shown in Chart 1 *[of the Senate Committee report]*, there was a significant increase in grant approvals in the months leading up to the 2004 federal election. In June, July and August 2004, the three months preceding the announcement of the election, $71.1 million worth of grants were approved. In other words, *over half* (58 per cent) of the total approved for the entire period from the commencement of the program to 31 December 2004 was approved in the three months preceding the election announcement. Of the funding approved in those three months, $22.1 million (31 per cent) was for projects in marginal electorates.[580]

5:2.50 The large number of projects approved in July and August 2004 resulted in a large number of Funding Agreements being signed in July, August and September 2004. In ANAO's audit sample, 26 Funding Agreements were signed between 2 July 2004 and 29 September 2004 (33 per cent of all Funding Agreements signed in 2004–05). Those Funding Agreements involved total Regional Partnerships funding of $3.731 million (including GST), of which $2.033 million (55 per cent) was to be paid in the first instalment.

Last quarter of 2004–05

5:2.51 The 2004–05 Budget Papers included an expense measure for an additional $78.2 million to support initiatives funded through the Regional Partnerships Programme.[581] This comprised $64.5 million in administered expenses for Outcome 2 over four years, $8.7 million for departmental outputs over four years and $5.1 million over four years in additional capital funding

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[580] Senate Committee Report, op. cit., p. 30.

[581] *Budget Measures 2004–05*, 2004–05 Budget Paper No. 2, Circulated by The Honourable Peter Costello MP Treasurer of the Commonwealth of Australia and Senator the Honourable Nick Minchin Minister for Finance and Administration for the information of Honourable Members on the occasion of the Budget 2004–05, 11 May 2004, p. 253.

for information technology systems to support administration of the Programme.[582]

5:2.52 The Budget measure included an additional $11.600 million in administered expenses for 2004–05.[583] There was also $9.562 million in administered expense funding re-phased from 2003–04.[584] This brought the amount of the Outcome 2 administered annual appropriation allocated to the Regional Partnerships Programme for 2004–05 to $90.801 million.

5:2.53 In the 2004–05 Additional Estimates process, the funds allocated to the Regional Partnerships Programme from within the Outcome 2 administered annual appropriation were increased to $103.431 million.[585] The increase comprised[586] a further $0.797 million in re-phasings from 2003–04 and funding for those election commitments announced during the 2004 Federal election campaign which were to be administered through Regional Partnerships and for which it had been decided that additional administered funding would be provided to the Programme.[587] The election commitment funding comprised:

- $9.7 million for the Bank@Post initiative ($1.5 million in 2004–05 together with forward estimates of $6.0 million for 2005–06 and $1.1 million for each of 2006–07 and 200–-08);
- $27.5 million[588] for the six icon projects announced in the *Investing in Stronger Regions* policy document ($7.6 million in 2004–05 together with forward estimates of $16.0 million in 2005–06 and $3.9 million in 2006–07);

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[582] Transport and Regional Services Portfolio, *Portfolio Budget Statements 2004–05*, Budget Related Paper No. 1.15, pp. 26, 27 and 66.

[583] Of which $0.6 million related to reimbursing the Programme for funds paid in relation to the Beaudesert Rail project.

[584] Transport and Regional Services Portfolio, *Portfolio Budget Statements 2004–05*, Budget Related Paper No. 1.15, p. 28.

[585] Transport and Regional Services Portfolio, *Portfolio Additional Estimates Statements 2004–05*, p. 53.

[586] ibid.

[587] Additional departmental outputs appropriation funding totalling $1.119 million in 2004-05 and $118 000 in each of the forward estimate years was also provided.

[588] The announced value of the six icon projects was $29.0 million, which included a $1.5 million election commitment announced in the 2001 election campaign in relation to the Bert Hinkler Hall of Aviation project, which had been funded through an expense measure in the 2002–03 Budget. At the time additional funding for the project of $2.5 million was announced in the 2004 election campaign, $50 000 of the original funding had been expended.

- $2.768 million[589] for the fifteen projects announced in the *Strengthening Tasmania's Economy and Building a Better Community* policy document (comprising $0.733 million in 2004–05 and forward estimates of $1.540 million in 2005–06 and $0.495 million in 2006–07); and
- $6.0 million for the Thuringowa Riverway development (comprising $2.0 million in 2004–05 and a further $2.0 million in the forward estimates for 2005–06 and 2006–07).

5:2.54 The Transport and Regional Services Portfolio Additional Estimates Statements for 2005–06 reported actual Programme expenditure for 2004–05 of $94.967 million.[590] This reflected a shortfall in expenditure of $8.464 million (eight per cent) against the available appropriation allocation.

5:2.55 The shortfall was considerably less than that which had been estimated at the time of the May 2005 Budget. Specifically, the May 2005 Transport and Regional Services Portfolio Budget Statement included estimated actual Programme expenditure for 2004–05 of $86.922 million.[591] This meant that actual Programme expenditure achieved by 30 June 2005 was $8.045 million (nine per cent) higher than had been forecast in May 2005. Expediting expenditure in advance of project needs played a role in DOTARS achieving this outcome.

5:2.56 Unlike 2003–04, during which there was a significant increase in the number of approvals late in the financial year (as part of the lead-up to the 2004 Federal election), there was no noticeable increase in the rate of project approvals in the last quarter of 2004–05. Specifically, 27 per cent of projects approved during the year were approved in April, May and June 2005.

5:2.57 However, there was an increase in the number of Funding Agreements signed in the last quarter of 2004–05 for projects in ANAO's sample. Specifically, 24 Funding Agreements were signed in this period compared to 16 signed in the third quarter and 14 signed in the second quarter. The majority of the Funding Agreements signed in the last quarter of 2004–05 in ANAO's sample (19 or 79 per cent) involved 50 per cent or more of Regional

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[589] This included errors totalling $3 000.

[590] Transport and Regional Services Portfolio, *Portfolio Additional Estimates Statements 2005–06*, p. 33. Similarly, the Department of Transport and Regional Services *Annual Report 2004–05* (p. 120) reported that actual expenditure in 2004–05 was $95.0 million.

[591] Transport and Regional Services Portfolio, *Portfolio Budget Statements 2005–06*, Budget Related Paper No. 1.15, p. 32.

Partnerships funds being paid in the first instalment. These Funding Agreements involved total Regional Partnerships funding of $2.436 million (including GST), of which $1.241 million (51 per cent) was to be paid in the first instalment.[592]

5:2.58 In this context, the acceleration of 2004–05 Programme expenditure between that expected at the time of the May 2005 Budget ($86.922 million) and actual expenditure achieved by 30 June 2005 ($94.967 million) was, in large part, achieved by expediting payments in relation to various election commitments. As noted at paragraph 5:2.23, in February 2005, the then Minister for Transport and Regional Services had sought a re-phasing of appropriation from 2004–05 to later years of $14.309 million for Regional Partnerships projects and $2.200 million for the Weipa Electricity Generation Compensation Package. Re-phasing of $2.200 million from 2004–05 to 2007–08 was provided in the May 2005 Budget.[593] At the time the re-phasing was requested, the Minister for Finance and Administration was advised that:

> The bulk of funding associated with the $14.309 million component of the re-phasing request relates to projects for which election commitments were made. A total of $11.800 million was approved during the recent Additional Estimates process as supplementation to the Regional Partnerships appropriations to meet expected obligations for these projects in 2004/05.
>
> As you would be aware the progressing of any funding proposal under the Regional Partnerships programme involves the application of thorough due diligence processes and detailed negotiation of project Milestones to ensure the appropriate expenditure of public monies.
>
> My department has informed me that, despite their best efforts, the process of gathering information from organisations, particularly the 6 Icon projects, has not progressed as quickly as originally anticipated. This will result in delays in the approval of funding and the negotiation of Funding Agreements for each

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[592] For example, as discussed in the ANAO case study of RP01365 Undercarriage Remanufacture Facility, the Funding Agreement for that project was signed on 6 April 2005. The application for funding had proposed that the payment of Regional Partnerships funds be made in accordance with identified cash flow needs associated with paying for the imported equipment that the Regional Partnerships funds would assist the funding recipient to purchase. Specifically, the application stated that 25 per cent of the purchase cost was to be paid at the time the equipment was ordered, with the remaining 75 per cent to be paid upon delivery of the imported equipment. However, DOTARS structured the Funding Agreement such that the first Regional Partnerships instalment comprised 50 per cent of the approved funding of $500 000 (plus GST). This was paid by DOTARS on 12 May 2005, many months before any equipment was actually ordered.

[593] Transport and Regional Services Portfolio, *Portfolio Budget Statements 2005–06*, Budget Related Paper No. 1.15, p. 18.

project and therefore, despite an expectation that most of this supplementary funding will have been formally committed, it is unlikely that we will be in a position to expend it.

5:2.59 The decision in the context of the May 2005 Budget process to not agree to re-phase $14.309 million of 2004–05 appropriation funding for Regional Partnerships projects, principally election commitments, led to payments being expedited by DOTARS for certain of the election commitments so as to increase Programme expenditure for 2004–05. This was so that the department could avoid the lapsing of unspent appropriation funding. In this respect, the following examples involved expedited expenditure of $6.76 million (plus GST) in May and June 2005:

- in respect to the Thuringowa Riverway—Pioneer Park Sport & Recreation Centre project, $6 million (plus GST) in Regional Partnerships funds were to contribute to the design and construction of a 1000 seat grandstand facility, an AFL and cricket oval, lighting, a practice field, mounds surrounding the oval, service roads, car parks and landscaping. In seeking approval for the funding on 10 March 2005, DOTARS advised the then Parliamentary Secretary that the recommended funding profile was $600 000 (plus GST) in 2004–05 (as requested by the funding recipient), $4.840 million (plus GST) in 2005-06 and $560 000 (plus GST) in 2006–07. However, the Funding Agreement executed by DOTARS on 6 May 2005 identified a first instalment of $2 million (plus GST), paid on 12 May 2005, notwithstanding that construction documentation (including building plans and approvals) were not due to be completed until November 2005. On-site work was not scheduled to commence until May 2006;
- in respect to the Mount Isa Rodeo and Regional Events Complex project, $5 million (plus GST) in Regional Partnerships funds was to contribute to the costs associated with project implementation, site preparation, civil works and construction of new facilities. In November 2004, when seeking funding approval, DOTARS advised the then Minister for Transport and Regional Services that the release of Regional Partnerships funding would be strictly tied to the delivery of key milestones. However, the Funding Agreement signed on 23 May 2005 included a first instalment payment of $1.76 million (plus GST) which was paid on 26 May 2005 notwithstanding that the first activity milestone (relating to the completion of design, documentation, approvals, tenders, external landscaping and buffer works) was not

due to be completed until 23 September 2005. Considerable delays were subsequently experienced, including due to the project failing to attract competitive tenders and the tender needing to be restructured. As a consequence, a second payment of $1 million (plus GST) due on 10 October 2005 was not made until 28 April 2006;

- in respect to the Hinkler Hall of Aviation project, $2.5 million (plus GST) in Regional Partnerships funding was approved by the then Minister for Transport and Regional Services on 15 June 2005. The Regional Partnerships funds were to contribute to the project by co-funding the construction of a museum building, landscaping the surrounds, payment for design consultants for the contents and exhibitions and payment for building contractors. The Funding Agreement signed on 27 June 2005 specified a total Regional Partnerships contribution of $3.95 million, comprising the $2.5 million 2004 election commitment and a $1.5 million commitment made by the Government in 2001, less $50 000 already spent on a feasibility study. The Funding Agreement specified that an advance payment of $1 million (plus GST) would be made by 24 June 2005[594], notwithstanding that planning and costings were not due to be completed until 31 December 2005, with a 30 June 2006 expected completion date specified for pre-construction infrastructure being in place and calling for construction tenders[595]; and
- in respect to the Australian Equine & Livestock Centre project, $6 million (plus GST) in Regional Partnerships funding was approved by the then Minister for Transport and Regional Services on 3 May 2005. The Regional Partnerships funding was to co-fund the cost of planning, materials and contractors engaged in the construction of the facility. The Funding Agreement signed on 3 June 2005 specified that an advance payment of $2 million (plus GST) would be made by 27 May 2005[596] although the milestone involving the engagement of architects,

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[594] This payment was processed on 28 June 2005. As of completion of ANAO fieldwork in relation to this project in October 2006, DOTARS had not obtained an acquittal of the extent to which these funds had been spent on the project.

[595] In August 2006, the funding recipient advised DOTARS that these milestones were now expected to be completed in September 2006 and March 2007 respectively. The expected date for completion of construction was revised to April 2008, compared to the date of 31 March 2007 specified in the Funding Agreement.

[596] The payment was made on 9 June 2005. The funding recipient’s April 2006 Progress Report stated that $1 901 266 (95 per cent) of the $2 000 000 payment remained unspent at that time.

preparation of plans, obtaining necessary approvals and licences and evidence supporting construction costs was not expected to be completed until 31 January 2006. The advance payment was also inconsistent with departmental advice to the then Minister (in response to the findings of an external viability report) that Regional Partnerships funding would involve staged payment being made after milestones were met.[597] Pictured in Figure 5:2.5 is the site of the Australian Equine and Livestock Centre in Tamworth, as photographed during an ANAO site visit in July 2007, illustrating that earthworks at the site had only recently begun, some two years after $2 million (plus GST) in Regional Partnerships funds was paid by DOTARS.

Figure 5:2.5

Site of Australian Equine and Livestock Centre as at July 2007

Source: Photographs of the site for the Australian Equine and Livestock Centre, Tamworth as taken during an ANAO site visit in July 2007.

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[597] In October 2006, a Funding Agreement variation was prepared to, among other things, extend the completion date for the first milestone to 30 June 2006 and overall project completion to 30 November 2007 (this date was originally 28 February 2007 but had been extended on 21 July 2006 to 31 September 2007). On 22 May 2007, DOTARS advised the Senate Standing Committee on Rural and Regional Affairs and Transport that the tenders in relation to the project had been awarded in April 2007 and construction was expected to commence in June 2007, with an expected completion date of May 2008.

Last quarter of 2005–06

5:2.60 The 2005–06 Budget included a $4.8 million measure relating to 13 election commitments in respect of which the Government had agreed to additional funding being provided to the Regional Partnerships Programme.[598] Specifically, the administered expense appropriation for Outcome 2 (*Assisting regions to manage their own futures*) was increased by $2.3 million in 2005–06 and $2.5 million in 2006–07.[599] This brought the amount of the Outcome 2 administered annual appropriation for 2005–06 allocated to the Regional Partnerships Programme to $111.625 million.[600] Although the 2005–06 Transport and Regional Services Portfolio Additional Estimates Statement indicated that there had been a reclassification of Programme funds from departmental to administered, the allocation of the Outcome 2 administered expense appropriation for 2005–06 remained at $111.625 million.[601]

5:2.61 The May 2006 Transport and Regional Services Portfolio Budget Statement for 2006–07 included estimated actual Programme expenditure for 2005–06 of $68.170 million.[602] As outlined at paragraph 5:2.23, lapsing and re-phasing decisions were made during the 2006–07 Budget process as a result of Programme under-spends, reducing the expected 2005–06 Programme expenditure to $84.725 million from the $111.625 million that had originally been made available for 2005–06.

5:2.62 As noted above at paragraph 5:2.30, at its May 2006 meeting, DOTARS advised the Ministerial Committee that it had strategies in place to bring expenditure for 2005–06 up by $18.3 million to $84.7 million, the figure for estimated 2005–06 expenditure disclosed in the May 2006 Portfolio Budget Statement. These strategies involved:

- reviewing progress on existing contracted projects to assess whether sufficient progress had been made to make or accrue further payments;

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[598] *Budget Measures 2005–06*, 2005–06 Budget Paper No. 2, Circulated by The Honourable Peter Costello MP Treasurer of the Commonwealth of Australia and Senator the Honourable Nick Minchin Minister for Finance and Administration for the information of Honourable Members on the occasion of the Budget 2005–06, 10 May 2005, p. 250.

[599] Transport and Regional Services Portfolio, *Portfolio Budget Statements 2005–06*, Budget Related Paper No. 1.15, p. 16.

[600] ibid., p. 32.

[601] Transport and Regional Services Portfolio, *Portfolio Additional Estimates Statements 2005–06*, pp. 17, 19 and 33.

[602] Transport and Regional Services Portfolio, *Portfolio Budget Statements 2006–07*, Budget Related Paper No. 1.15, p. 31.

- finalising Funding Agreements for approved projects with an assumption made that, on average, 40 per cent of approved funding would be paid in the first instalment[603];
- identifying 10 projects[604] that were with Ministers for approval that could be contracted as a high priority and implemented quickly if approved, with first payments of 40 per cent again being assumed;
- identifying three or four high value projects under assessment that could be targeted for 40 per cent first instalment payments if the relevant steps of completing a brief to Ministers, approval and contracting could be completed within two weeks; and
- possible initiatives to assist ACCs through additional 'one-off' payments to be made prior to 30 June 2006.

5:2.63 The department had also advised the Ministerial Committee in March and April 2006 of the need to reduce the time taken to complete assessment and approval processes in order to ensure that there would be sufficient approved projects to enable contracting and expenditure of allocated appropriations In this respect, in total, 46 per cent of all Regional Partnerships applications approved for funding in 2005–06 were approved between 1 April 2006 and 30 June 2006.

5:2.64 This overall increase in approvals late in the 2005–06 financial year was also reflected in ANAO's sample in which the majority of Agreements in the sample that were executed in 2005-06 were signed in the last quarter of the financial year. Specifically, 41 per cent of the 61 Funding Agreements in ANAO's sample that were executed in 2005–06 were signed between 18 April 2006 and 27 June 2006. Of the 25 Funding Agreements signed in this period in ANAO's sample, 20 (80 per cent) involved a first instalment of 50 per cent or more of the total approved funding. These Funding Agreements involved total Regional Partnerships funding of $5.850 million (including GST), of which $3.057 million (52 per cent) was to be paid in the first instalment.

5:2.65 Actual Programme expenditure for 2005–06 was $83.710 million[605], nearly the full amount of the expected level of expenditure as reflected in the

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[603] An example from ANAO's audit sample is outlined in paragraphs 5:2.31 to 5:2.33.

[604] None of these projects were in ANAO's audit sample.

[605] Transport and Regional Services Portfolio, *Portfolio Additional Estimates Statements 2006–07*, p. 33. Similarly, the Department of Transport and Regional Services *Annual Report 2005–06* (p. 136) reported that actual expenditure in 2005–06 was $83.7 million.

lapsing and re-phasing decisions. It was, nonetheless, a shortfall of $27.915 million (25 per cent) against the appropriation allocation that had been made available through *Appropriation Act (No. 1) 2005–06*.[606]

Revised internal procedures and training

5:2.66 As noted at paragraph 5:2.29, DOTARS has advised ANAO that one of the key messages it had reinforced in recent training was that payments should not be made in advance of need. In addition, in July 2007, DOTARS advised ANAO that:

> The updated Procedures Manual has been developed in line with the Australian National Audit Office's Administration of Grants—Better Practice Guide (May 2002 Section 2.86). As you would be aware, the ANAO's Guide identifies that grants can be paid as:
>
> - Lump sum funding
> - Standard percentage funding
> - Flexible funding, or
> - A combination of these.
>
> In the case of Regional Partnerships, a flexible funding model[607] is regarded as best suited due to the diversity of eligible projects and applicants. This payment flexibility recognises the broad cohort of projects, including:
>
> - small community projects, which constitute a large percentage of Regional Partnerships funding recipients, and which often require upfront funding due to the recipient's reduced access to cash flow, and
> - larger commercial type projects where there is a higher level of risk.
>
> The updated Procedures Manual stipulates that the level of need will be established with the applicant and supported by evidence provided by the applicant demonstrating why a prepayment is needed and why the Regional Partnerships funding is required prior to or in addition to funding from other sources. Chapter 6 of the updated Procedures Manual clearly outlines that

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[606] For 2005–06, no additional funding was provided for Regional Partnerships Programme grants through the Additional Estimates process.

[607] The Better Practice Guide defines flexible funding as being: 'where a financial appraisal of the project determines the amount and terms of the grant. In order to optimise program expenditure, this is normally preferred when large individual grants are anticipated. Funds should preferably be payable only on completion of work that represents a milestone defined in the relevant grant agreement. This strategy provides a greater degree of control over the recipient's use of funds. That is, if project work is not completed satisfactorily, no further funds are forthcoming.' (ANAO Better Practice Guide—Administration of Grants, op. cit., p. 31.)

> Funding Agreements should not result in prepayments on execution of an Agreement unless withholding funds would compromise the project commencing. If a payment is to be made ahead of the expenses being incurred, this should only happen if:
>
> - the Activity would not otherwise proceed, and
> - evidence is provided by the Funding recipient that the funding is required to meet an identified expense, or
> - following completion of a milestone.

Payments subsequent to the initial instalment

5:2.67 Appropriately structuring payments for grant projects has long been recognised as an important aspect of effective grant management. In this respect, advice from AGS has been that where the financial situation of the recipient permits, a prudent agency will draft the agreement's schedule so that funds are paid in instalments, in arrears, and on satisfactory completion of major project milestones.[608] This is particularly the case where the agency may not be able to recover amounts paid in advance.

5:2.68 Consistent with the principle of matching Regional Partnerships payments to project cash flow needs, the Regional Partnerships application form has advised applicants that:

> Regional Partnerships payments are linked to the achievement of milestones.

5:2.69 In the period examined by ANAO, the information required from applicants by the Regional Partnerships application form provided a sound basis for DOTARS to develop Funding Agreements that appropriately aligned Regional Partnerships payments to the funding recipient's needs. In particular, the Regional Partnerships application form required applicants to break their project down into key milestones and associated required payments. The information required to be provided included the milestone descriptions; the month each was due to occur; the cost items associated with each milestone and their estimated cost; and the payment (if any) required from the Regional Partnerships Programme towards the cost of each milestone.

5:2.70 However, in its structuring of the instalment arrangements specified in Funding Agreements for the projects examined by ANAO, DOTARS had adopted a practice of making payments in advance of the timing requested by

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[608] Australian Government Solicitor, Commercial Notes Number 19, 29 May 2006, p.12.

funding recipients in their applications for funding. As outlined above, there had been a consistent practice of a significant proportion of approved funding being paid in the first instalment, usually as an advance payment made shortly after the Funding Agreement had been signed. In addition, in relation to later instalment payments (if any)[609], it had also been common for the department to make further payments to funding recipients notwithstanding that Funding Agreement pre-conditions applying to those payments had not been satisfied. In particular, further payments had regularly been made notwithstanding that earlier (usually substantial) instalment payments had not been adequately acquitted. Specifically, the schedule to the Long Form Standardised Funding Agreement used for most Regional Partnerships projects in the first four years of the Programme to June 2007 included a standard clause stating that payments subsequent to the first payment would not be made until:

- an acquittal showing that previous payments had been fully expended, or evidence that the previous payments would be fully expended in the near future, had been accepted by DOTARS;
- all progress and other reports that were due on or before a payment was to be made had been accepted by DOTARS; and
- a properly rendered tax invoice for the amount of the payment had been received by DOTARS.

5:2.71 For example, ANAO's case study of RP01101 Beef Australia 2006 outlined how the Funding Agreement for that project provided for the Regional Partnerships funds of $2.2 million (plus GST) to be paid in five instalments[610], in the same amounts as those sought by the funding recipient in the *'preferred Investment Schedule'* included in its 13 February 2004 letter to the then Minister for Transport and Regional Services in which it was seeking funding for the staging of Beef Australia 2006. The funding recipient had provided the then Minister with the 'Invitation to Partner' document it was

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[609] There were four projects in the audit sample where the full amount of Regional Partnerships funding was paid in a single instalment. The GST inclusive amounts involved were $12 695.10 (RP01813), $21 956.00 (RP01431), $29 029.00 (RP00515) and $2 750 000.00 (RP00833).

[610] The Funding Agreement required the funding recipient to submit four Progress Reports and a Post Activity Report. Each of the reports required under clause 3.1 of the Schedule to the Agreement were due <u>after</u> the proposed payment date for the associated payment identified in clause 2.4 of the Schedule to the Funding Agreement. As a consequence, the terms of the Agreement did not require the funding recipient to provide a statement of Activity expenditure, including a summary of expenditure of cash contributions from the funding recipient and other funding partners, prior to receiving the second and subsequent payments.

using to raise government and corporate sponsorship. The proposed payment due dates for the Regional Partnerships instalments were also consistent with the payment timings requested by the funding recipient on 13 February 2004. This is consistent with DOTARS relying upon the Invitation to Partner document to frame the payment schedule, rather than on analysis of the funding recipient's actual payment needs, based on projected expenditure profiles.[611]

5:2.72 Figure 5:2.6 illustrates the actual timing of expenditure on Beef Australia 2006 as reported to DOTARS by the funding recipient in its project acquittal. It demonstrates that, in addition to a substantial first instalment payment, later payments of Regional Partnerships funds were made notwithstanding that the funding recipient had yet to spend previous instalments. There were also no steps taken to link payment of Regional Partnerships funds to receipt of contributions from other partners, including revenue from the event. As a result of the financial acquittal not identifying the amounts and dates of all contributions from the funding recipient (through exhibition revenue) and other partners, it was not possible to include in Figure 5:2.6 all project revenue, and the date on which it was received. Following consideration of an ANAO case study of this project, in May 2007 DOTARS advised ANAO that it was seeking legal advice as to whether the department:

- has grounds to request the repayment of interest earned on the Regional Partnership funds;[612] and
- should be taking steps to recover an estimated overpayment that was revealed by ANAO analysis of the acquittal information accepted, without question, by DOTARS in finalising the grant.[613]

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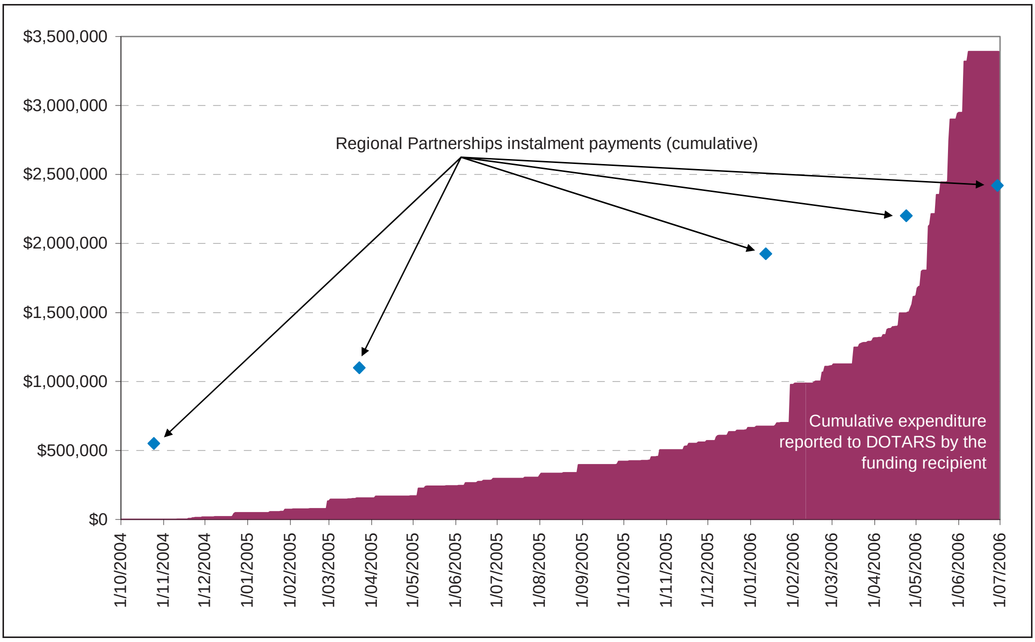
[611] In this respect, in providing the project file to the Regional Office in July 2004, National Office advised: 'You will need to finalise a Funding Agreement with Beef Australia Inc, but since Beef Australia do not want the first payment ($500 000) till this coming October (see P.13 of the 'Invitation to Partner'), there are no immediate deadlines that have to be met.'

[612] In July 2007, DOTARS requested advice from the funding recipient in respect to the total amount of interest that had been earned from the Regional Partnerships funding and information as to how the interest was spent, or if it had been carried over for use in the next Beef Expo. The funding recipient advised DOTARS that a sum of $30 464 in interest had been earned in relation to the Regional Partnerships funds, which had been expended toward staging costs of the 2006 Beef Expo.

[613] Initial ANAO analysis that revealed a project surplus was based on audited acquittal information obtained by DOTARS as part of its administration of the Funding Agreement. In November 2007, Beef Australia provided ANAO with a one-page unaudited summary of actual project income (cash and in-kind) and project expenditure (cash and in-kind). The information provided to ANAO by Beef Australia continued to indicate a substantial project surplus.

Figure 5:2.6

Regional Partnerships instalment payments compared to actual project expenditure



Source: ANAO analysis of financial acquittal information provided to DOTARS by Beef Australia.

5:2.73 Another such example involved RP01365 Undercarriage Remanufacture Facility project, which is the subject of an ANAO case study. The Funding Agreement for this project, signed by DOTARS on 6 April 2005, provided for three payments, as follows:

- a first payment of $250 000 (50 per cent of the Regional Partnerships funds) to cover the first milestone, defined as:

  Contract executed. Order placed for imported equipment and evidence provided.

- a second payment of $200 000 (40 per cent of the Regional Partnerships funds) to cover the second and third milestones, defined as:

  Factory construction for housing equipment complete.

  Imported equipment delivered on site; progress report to date plus financial acquittal of first payment provided; tracking of co-funding expended to date; and

- a final payment of $50 000 (the final 10 per cent of the Regional Partnerships funds) to cover the fourth milestone, defined as:

> Factory commissioned. Factory opened. 15 staff recruited and training completed. Final audit and final evaluation report including employment records provided.

5:2.74 The first instalment payment of $250 000 (plus GST) was processed by DOTARS on 12 May 2005 without seeking any further evidence that the order for the equipment had actually been placed. In addition, the second payment of $200 000 (plus GST) was made by DOTARS on 6 October 2005, despite clear evidence that the first milestone had still not been met (in that the imported equipment had not yet been ordered) and the terms of the third milestone had also not yet been achieved. Further, through the acquittal, the funding recipient:

- advised that none of the first Regional Partnerships instalment had been spent;
- provided no evidence that equipment had yet been ordered;[614]
- stated that the only expenditure undertaken to that date involved $123 250 of partner funds; and
- completed that part of the pro-forma inviting it to either confirm that the preceding $250 000 instalment had been expended or committed by simply deleting the word 'expended'.

5:2.75 ANAO's case study of this project demonstrated that, as of 30 June 2006, $476 725 of the $495 000 (GST inclusive) paid by DOTARS was no longer held in the bank account into which the Regional Partnerships funds had been paid, despite no payments having been made for imported specialised undercarriage remanufacture equipment. Some equipment had been ordered (but not paid for), but the amounts involved only totalled $339 994. Three of the items of equipment identified in the Regional Partnerships application had not been ordered. In August 2007, an administrator was appointed to the company that received the Regional Partnerships grant and the majority of the specialised undercarriage remanufacture equipment purchased in whole or part with Regional Partnerships funding has been advertised for sale.

5:2.76 In addition to the case studies of RP01101 Beef Australia 2006 and RP01365 Undercarriage Remanufacture Facility, a further 18 of the 22 ANAO

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[614] Despite the terms of the relevant milestone which were 'Contract executed. Order placed for imported equipment and evidence provided', DOTARS processed the first payment. DOTARS' only comment on this finding was 'Noted'.

case studies similarly evidenced payments not being aligned with project cash flow needs.

Revised internal procedures and training

5:2.77 As noted at paragraph 5:2.66, DOTARS has advised ANAO that one of the key messages it had reinforced in training was that payments should not be made in advance of need and that the revised Internal Procedures Manual requires the Funding Agreement payment schedule to be based on need and to be subject to the achievement of appropriate project milestones.

Linking payments to receipt of partner contributions

5:2.78 In partnership funding arrangements, project proponents may receive funds from a number of partners. In April 2007, DOTARS advised ANAO that it recognised that, because Ministers approve Australian Government funding on the basis of contributions put in by other parties, the department is responsible for monitoring the conduct and progress of all parties. However, this principle has not been reflected in the administration of Funding Agreements for individual projects. Specifically, for most of the projects in ANAO's sample, DOTARS made no attempt to link Regional Partnerships funding to the receipt of partner contributions.

5:2.79 For example, RP00769 Redevelopment of Geraldton Surf Life Saving Club was approved for funding in June 2004 subject to two conditions, one of which was that a satisfactory independent financial risk assessment be undertaken. Having regard to the number and quantum of partner contributions to this project, among other things, the external viability assessment report for this project recommended that DOTARS:

> Establish milestone payments triggered by receipt of co-funding.

5:2.80 The ANAO case study of this project outlined that, notwithstanding the recommendation from the external viability assessment, the Regional Partnerships Funding Agreement was not drafted, and has not been managed, by DOTARS so as to effectively manage risks associated with the project being primarily funded by contributions from a large number of parties external to the applicant. Of note is that the Funding Agreement did not link payment of Regional Partnerships funds to the receipt of amounts from other project partners, and DOTARS has not otherwise monitored the receipt or expenditure of contributions by other partners.[615]

5:2.81 Even in circumstances where the applicant provided information to DOTARS on the timing and quantum of partner contributions, the Regional Partnerships Funding Agreement was structured without regard to partner funding arrangements. For example, in respect to RP00289 Australia's National Mineral Water and Bathhouse Facility, the State Government Funding Agreement was attached to the Regional Partnerships application form. This Agreement provided valuable information to DOTARS on the expected timing and quantum of payments to Council by the State Government. Specifically, it showed that the State Government had agreed to fund the first $5 180 515 in project expenditure. Accordingly, until project expenditure exceeded $5 180 515, there would be no need for the Regional Partnerships Programme to provide any funding (leaving aside the contribution from the Council applicant). Notwithstanding this, and that the Regional Partnerships funds were contributing to stage 3 of a four stage construction project, $450 000 plus GST in Regional Partnerships funds (90 per cent of the approved amount) was paid soon after the Funding Agreement was signed.

5:2.82 Another example in the audit sample was RP01016 Design and Construction of an Interpretive Centre for the Carnarvon One Mile Jetty. The Funding Agreement for the project was signed on 8 August 2006, some 22 months after funding was approved due to difficulties the proponent had in attracting and securing partnership funds.

5:2.83 Having regard to the difficulties and delays experienced by the applicant in attracting and confirming sufficient partner contributions to enable the project to proceed, it would be reasonable to expect that DOTARS would seek to manage risk to the Commonwealth by linking Regional Partnerships payments to the receipt and use of contributions from other project partners. However, DOTARS constructed the Funding Agreement such that 30 per cent of Regional Partnerships funds were processed for payment on 9 August 2006, one day after the Funding Agreement was signed. This approach was taken notwithstanding:

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[615] In this respect, bank statements provided to ANAO by the funding recipient showed no evidence of substantial contributions having been deposited into the building bank account from other project partners up to March 2006. In addition, this data demonstrated that the first instalment of Regional Partnerships funds was too large and paid too early compared to project requirements.

- the history of delays with the project;
- the uncertainty resulting from the design and build nature of the project in an environment of construction cost increases;
- the fact that a tenderer to design and construct the centre was not expected to be selected until 30 November 2006; and
- the first $100 000 in Regional Partnerships funds was to fully fund completion of plans and site preparation but this was not expected to be completed until 28 February 2007.

5:2.84 In this context, in April 2007 DOTARS advised ANAO that:

> The department requires the funding recipient to account for partnership contributions and the expenditure of partnership funds within the reporting and acquittal process. It does not, however, impose requirements on the timing of partnership funds just as it would not accept such requirements imposed on its funding.

5:2.85 There is a balance to be struck in managing the timing of payments so that the Commonwealth's interests are protected. Given the strong emphasis on partnerships as a central plank of the Programme, it is not unreasonable that this extend to the timing of Regional Partnerships and partner contributions, as has occurred in some instances. In this respect, there have been instances where DOTARS has set out to link Regional Partnerships payments to the receipt of partner funding. For example, in RP01216 Organic Chicken Processing, DOTARS recommended, and the then Parliamentary Secretary approved, funding of $200 000 (plus GST) subject to the funding recipient using its funds first, with Regional Partnerships funding being paid in arrears. However, due to oversights within DOTARS, no steps were taken in the drafting of the Funding Agreement to give effect to this condition.

5:2.86 In another project, RP00622 Jarrahdale Heritage Park, the Funding Agreement was actually drafted so as to link the payment of Regional Partnerships funds to partner contributions. Specifically, in response to the findings and recommendations of the external viability assessment conducted after funding was approved, DOTARS structured the Funding Agreement so as to link the payment of Commonwealth funds to identifiable milestones that included the provision of funds by other project partners. In this respect, the Funding Agreement included a pre-condition that the second and subsequent milestone payments would not be made until the Shire had provided satisfactory confirmation that all other funds linked to the milestones covered in the payment had been or would shortly be received.

5:2.87 The second payment of Regional Partnerships funds of $160 500 was made by DOTARS on 25 January 2006. It was to cover the third and fourth milestones. The amounts the Shire sought in its application to be contributed to these milestones by the Regional Partnerships Programme and other partners are outlined in Table 5:2.3. However, no confirmation was obtained by DOTARS that $139 000 in funds for those milestones had been received or would shortly be received from the Shire or the other project partners. In this respect, contract management shortcomings negated the benefits achieved in the drafting of the Funding Agreement.

Table 5:2.3

Second Regional Partnerships payment: funding shares

Milestone	Regional Partnerships funds	Partner co-funding
Improved access: installation of initial signage; improved road access, traffic calming and intersection safety; bridge construction; upgrading of trails; clearing and safety works for major projects	$68 500	$56 500
Improved facilities: construction of picnic decks, completion of signage and promotion	$92 500	$82 500
Total	**$161 000**	**$139 000**

Source: Shire of Serpentine-Jarrahdale’s Regional Partnerships application of 30 March 2004.

Revised internal procedures and training

5:2.88 In July 2007, DOTARS advised ANAO that:

> The ANAO has proposed improvements regarding partner funding expenditure. This issue had been addressed in the updated Procedures Manual and through the two phase Funding Agreement management training, as detailed in previous responses. The revised Funding Agreement (section 5.3(d)) also requires the Funding recipient to authorise the department to be able to obtain relevant bank statements as and when required.
>
> These tools will assist departmental staff to appropriately mitigate risks associated with partner funding expenditure through appropriately structuring the Funding Agreement, the regular monitoring of accounts and the use of funding acquittal templates.

Purchasing versus leasing decisions

5:2.89 Programme procedures have not adequately addressed the implications of alternative methods of acquiring assets (including equipment). Specifically, the decision to buy or lease assets involves a comparison of alternative timing patterns for the same or similar payments.[616] Conceptually, the choice is between large occasional cash outlays in order to purchase an item or making regular payments through a lease arrangement. Instead, each version of the Programme Internal Procedures Manual applicable to the period examined by ANAO focused on funding recipients purchasing assets, as follows:

> Project funds should not be used to purchase assets that are not listed in the funding and budget details in the application form, without written approval from the Australian Government. Identify any equipment that is required for the project, providing details of any proposed purchase of assets, the funding source that will meet the purchase costs, and alternative methods of acquiring the equipment.[617]

5:2.90 In the context of the administration of the Regional Partnerships Programme, understanding the implications of lease versus buy decisions is important so as to:

- adequately reflect in project assessments the different cash flows and risks involved, including understanding the level and nature of contributions being made by project partners; and
- develop a Funding Agreement that reflects the cash flow needs of the funding recipient in procuring the piece or pieces of equipment for which Regional Partnerships funding has been sought.

5:2.91 In this respect, ANAO found that in its assessment of projects and development of Funding Agreements, the department often does not address the manner in which assets will be acquired. The risks in such an approach were demonstrated in ANAO's case study of RP00740 AUSGUM Furniture Expansion Project, involving the acquisition by the funding recipient of equipment through a five year finance lease arrangement. In being asked to approve funding for that project, the then Parliamentary Secretary was advised

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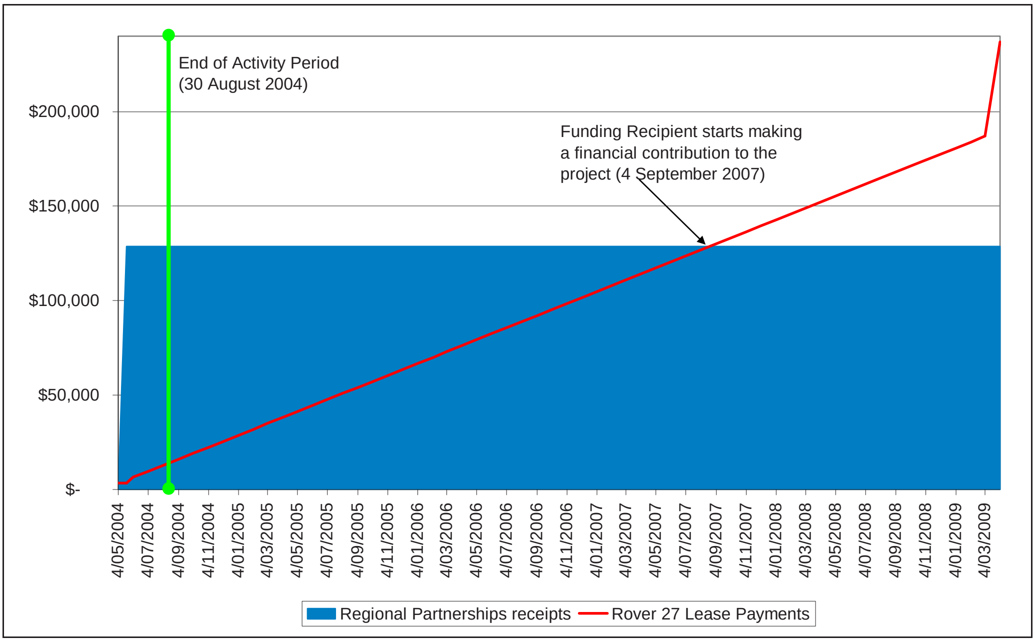
[616] ANAO Audit Report No.4 2001-2002, *Commonwealth Estate Property Sales*, Canberra, 1 August 2001, p. 115.

[617] DOTARS, *Internal Procedures Manual*, September 2005, pp. 28 and 29.

that the project duration was five months, during which time Regional Partnerships funding of $130 000 plus GST was to be paid, with the applicant to contribute cash of $173 109. Further in this respect, the Funding Agreement involved an Activity Period of less than four months (7 May 2004 to 30 August 2004). In this respect, a project conducted over four months involving total expenditure of $203 109 does not relate well to the acquisition of equipment over five years through a lease arrangement. This is illustrated by Figure 5:2.7.[618]

Figure 5:2.7

Analysis of lease payments and Regional Partnerships funding arrangements



Source: ANAO analysis of DOTARS records for RP00740 AUSGUM Furniture Expansion Project.

5:2.92 Another example of a project involving the acquisition of equipment through a lease was RP00682 Country Valley Milk Co-op. This project involved the expansion of the manufacturing capability of the Country Valley dairy farm in Picton, NSW to boutique milk product lines. Regional Partnerships

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[618] In October 2007, DOTARS advised ANAO that it had considered its options and would be terminating the Funding Agreement. The department would not make the outstanding final payment due to non compliance with the reporting requirements of the Funding Agreement and would be seeking to recover the unspent portion of Regional Partnerships funding.

funding of $241 272 was approved on 28 June 2004. The applicant, Country Valley Pty Ltd, was identified as contributing $392 422 cash and $115 200 in-kind. In recommending funding approval, DOTARS advised the then Parliamentary Secretary that the Regional Partnerships funding would be used to assist in the leasing of cheese-making equipment, a refrigerated container and delivery vehicles; purchase of packaging materials and sundry supplies; and to design and produce promotional materials. The then Parliamentary Secretary was advised that the project duration was 12 months. The department's project assessment and advice did not address why a capital grant was recommended for the leasing of equipment and vehicles. In November 2007, the funding recipient advised ANAO that:

> When we initially lodged our application we quoted throughout the application that we wished to 'lease' certain pieces of equipment and vehicles to enable us to expand our business and commence producing new product lines. On being notified of receiving the grant we began negotiations as to exactly what would be part of the funding. We then realised that it would be far more beneficial to us financially to purchase outright the equipment rather then enter into a long term lease that would need to be funded once the project had finished. We raised this with DOTARS who informed us that because we had mentioned the word 'leasing' in our application we would therefore need to lease rather than purchase. We then organised a lease that would only run for the length of the project so that our cash flow would not be affected. We would definitely have preferred to purchase as we would not have had to pay interest and set up fees and therefore may have had extra funds to put to other uses in the project.
>
> This was the only aspect of the project that we were (slightly) unhappy about. All other dealings with DOTARS were fantastic. We found them very supportive and willing to listen to any issues we may have had.

Revised application form and internal procedures

5:2.93 In July 2007, DOTARS advised ANAO that the department has taken steps to explicitly address the manner in which equipment acquisitions will occur so as to adequately reflect the implications arising from the different cash flows and risks involved in direct purchase versus leasing arrangements. Specifically, the department advised ANAO that:

- the Regional Partnerships application form has been amended to ask applicants if equipment purchases are to be by direct purchase or lease arrangement; and
- it had included reference to matching payments appropriately to the project's expenditure requirements in the revised Internal Procedures Manual.

5:3 Distribution of applications and funding

This chapter discusses the distribution of Regional Partnerships applications and approved funding.

Introduction

5:3.1 As noted in previous ANAO reports[619], access and equity are important elements of the administration of Commonwealth programmes. Questions are frequently raised in Parliament and by the general public about the even-handed treatment of grant applications, for example, in their distribution by electorate.

5:3.2 The distribution of grants made under a national grants programme can be a measure of equitable distribution, and can also be an indicator of party-political bias in the distribution of grants. Such measures should, of course, be viewed in the specific context of each grants programme.

5:3.3 In the case of the Regional Partnerships Programme, the underpinning policy objective that gave rise to the programme, as articulated in the Government's August 2001 *Stronger Regions, A Stronger Australia* Statement, is focussed on contributing to economic and social development in regional and rural Australia. However, this does not preclude projects in metropolitan areas from receiving funding.

Senate Committee analysis

5:3.4 In the course of its inquiry into the Regional Partnerships Programme, the Senate Committee considered applications submitted between July 2003 and December 2004. In seeking approval from the then Minister for Transport and Regional Services in January 2005 of its proposed departmental submission to the inquiry, DOTARS advised the Minister that:

> The submission also includes an analysis of grants under Regional Partnerships showing that the distribution of approved projects reflects the pattern of applications received and is not skewed toward particular electorates by the decision making process.

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[619] Including ANAO Report No. 30 1999–2000, *Examination of the Federation Cultural and Heritage Projects Program*, Canberra, 3 February 2000, p. 49 and ANAO Report No.39 2006–07, op. cit., p .84.

5:3.5 In the October 2005 report of its inquiry, the Senate Committee reported that:

> The data showed that overall there was little difference in the proportion of applications approved among electorates held by different parties. There were, however, significant differences in the numbers of applications made from electorates held by Government, Opposition and Independent members and in the funds provided.[620]

5:3.6 Data provided to the Senate Committee by DOTARS indicated that, between 1 July 2003 and 31 December 2004, applications had been received from applicants in Government-held electorates at about three times the rate of electorates held by the Opposition (at an average rate of 9.7 applications per Government electorate compared to 3.3 applications per Opposition electorate). Total funding approved to 31 December 2004 in Opposition electorates represented 28 percent of the funding approved in Government electorates. In the 82 electorates then held by the Government, 795 applications were made resulting in $65.2 million of grants, whereas 209 applications made in the 64 electorates held by the Opposition resulted in $18.5 million of approved grants.[621]

5:3.7 Over the same period, applications had been received from the four seats then held by Independents at an average rate of 15 applications per electorate, for approved funding of $14.9 million (or 23 percent of funding approved in Government electorates).

5:3.8 The Senate Committee also noted differences in the number of grants and funding received across the locations of electorates between July 2003 and December 2004. In summary, the Committee found that the overall number of grants approved for Government-held electorates in that period had been significantly higher than for Opposition-held seats, and that the electorates that on average received most funding from the Programme had been seats held by Independent members.

5:3.9 The Senate Committee recommended that:

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[620] Senate Committee Report, op. cit., p. 28.

[621] ibid.

> …the Government address inequities in the distribution of Regional Partnerships program funding consistent with the ANAO Better Practice Guide.[622]

5:3.10 The November 2006 Government Response to the Senate Committee's report advised as follows:

> **Agree in part**. The distribution of approved projects reflects closely the pattern of applications received. ACCs are already required to ensure equitable distribution of projects within their regions under key performance indicators imposed by the department. In accordance with ANAO's Better Practice Guide, all applications for funding under the *Regional Partnerships* and *Sustainable Regions* programmes, are assessed "in accordance with requirements of procedural fairness" (page 45).

5:3.11 In this context, ANAO examined the pattern of distribution of Regional Partnerships applications and approved grants since the commencement of the Programme to 30 June 2006 on both a geographic and electorate basis. As well as providing an additional eighteen months of data to that examined by the Senate Committee, this timeframe enabled analysis to be undertaken of application and approval patterns both before and after the October 2004 Federal election.

Distribution of applications

5:3.12 Applicants from all areas of Australia are eligible to apply for Regional Partnerships funding at any time. In this context, Figure 5:3.1 identifies the number of Regional Partnerships applications submitted each month over the first three years of the Programme to 30 June 2006. Not all applications formally submitted subsequently proceed to a Ministerial funding decision. In particular, an applicant may elect to withdraw an application and, in many cases, submit a revised proposal. For the purposes of analysing the rate at which applications have been made to the Programme, ANAO has included all applications formally submitted. The analysis excludes projects that related to election commitments made during the 2004 election, except to the extent an application relating to that project had been formally submitted prior to being announced as an election commitment.

5:3.13 Consequently, the total number of 1 842 applications to 30 June 2006 includes:

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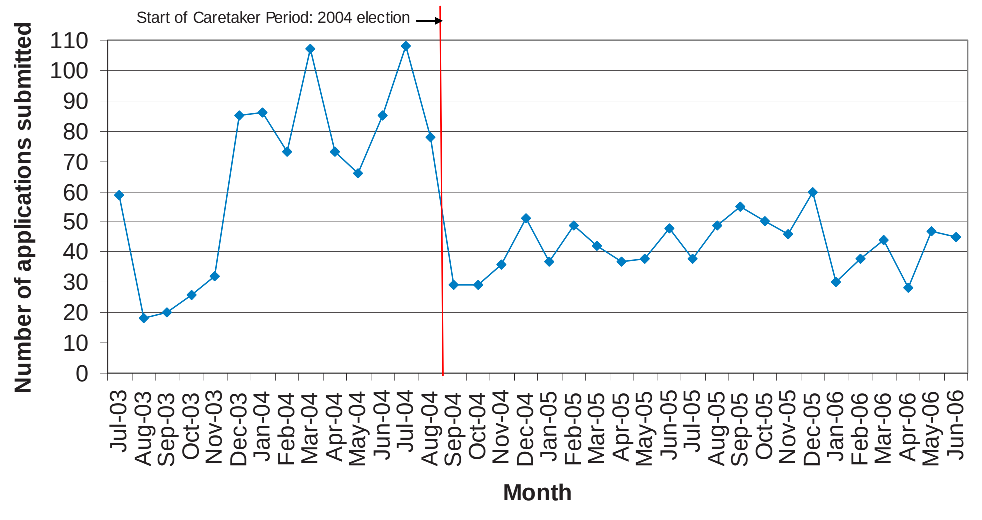
[622] ibid., p. 202, Recommendation 7.

- 1 370 individual projects on which a funding decision had been made by 30 June 2006 (including two amounts that related to a contribution by Regional Partnerships to project(s) administered through another department). Funding was approved for 981 (72 per cent) of those projects;
- two grants approved as a contribution from Regional Partnerships funds to projects administered through other Commonwealth departments;
- six applications that were not funded but in respect of which a formal Ministerial decision to not approve funding was not recorded;
- 308 applications that were formally withdrawn by the applicant or otherwise deemed to be withdrawn by DOTARS (including two projects subsequently announced as Coalition election commitments);
- 13 applications that were not progressed under the normal Programme assessment procedures due to also having been announced as Coalition election commitments during the 2004 Federal election campaign; and
- 143 applications that were still under assessment or on which a funding decision had yet to be made as at 30 June 2006.

Figure 5:3.1

Applications submitted per month: July 2003 to June 2006



Source: ANAO analysis of DOTARS data.

5:3.14 As can be seen from Figure 5:3.1, there was a gradual increase in applications being submitted in the early months of the Programme.[623] This was followed by a sharp increase in applications submitted in December 2003 (85), which was nearly three times the number that had been submitted in November (32). The rate of application remained high over the subsequent months leading up to the start of the caretaker period for the 2004 Federal election on 31 August 2004, peaking at 108 applications submitted in July 2004.

5:3.15 By way of comparison, the average monthly rate of application in the subsequent period September 2004 to June 2006 was 42. The applications submitted in the nine month period December 2003 to August 2004 (25 per cent of the 36 month period examined by ANAO) accounted for 41 per cent of all applications submitted over the full 36 months examined.

5:3.16 As was discussed further in Chapter 3 of Part 2 of the audit report, the generation of the high level of application activity between December 2003 and August 2004 reflected a focus within the administration of the Programme on encouraging ACCs to maximise the number of applications submitted, and therefore, the number of projects for which funding could be committed in order to maximise expenditure of available funds. Considerations relating to the approaching Federal election are also relevant in this context.

Distribution of applications

5:3.17 There have been substantially higher numbers of applications received from Liberal-held electorates than from electorates held by representatives from other parties. The rate at which applications were received by party-electorate is set out Figure 5:3.2.

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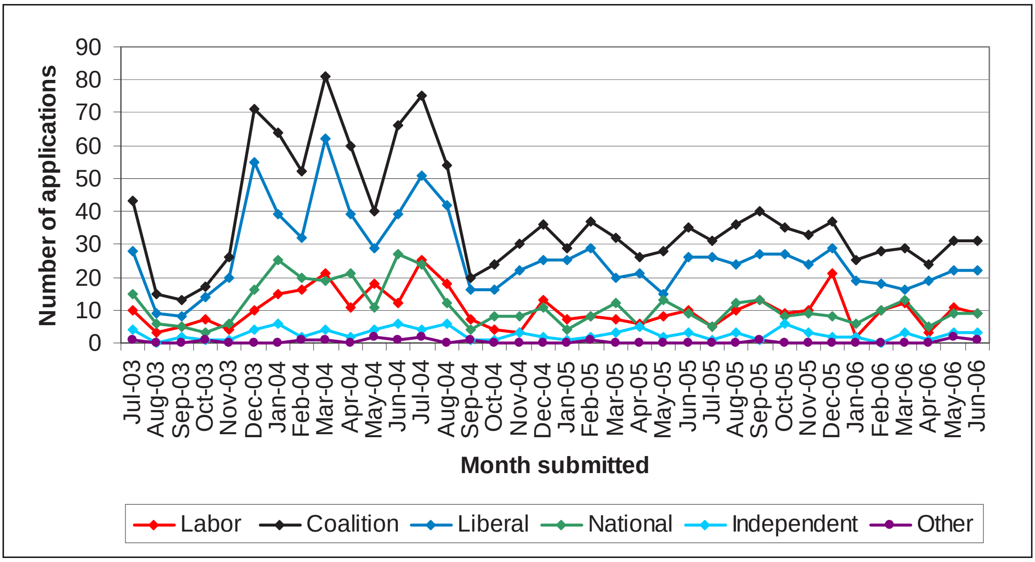
[623] The relatively higher number of applications identified as being submitted in July 2003 relates to applications submitted under programmes subsumed into Regional Partnerships and rolled into the new Programme for funding consideration, which are shown in Figure 5:3.1 as having been submitted on 1 July 2003.

Figure 5:3.2

Rate of application by party-electorate: 1 July 2003 to 30 June 2006



Source: ANAO analysis of DOTARS data.

5:3.18 Table 5:3.1 compares the proportion of seats held by each party with the rate at which Regional Partnerships applications had been received in those seats to 30 June 2006.[624] The significant features are that:

- Labor party electorates were submitting substantially fewer applications relative to their representation in the Parliament; and
- National party electorates were submitting significantly more applications relative to their representation in the Parliament.

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[624] This analysis excludes applications for projects that covered electorates held by various parties.

Table 5:3.1

Proportion of all seats pre and post the 2004 election compared to proportion of applications

Party	Proportion of all seats		Proportion of applications	
	Pre election	Post election	Pre election	Post election
Labor	43%	40%	19%	20%
Liberal	45%	49%	52%	53%
National	9%	8%	23%	20%
Independent	2%	2%	5%	6%
Other	1%	1%	1%	1%

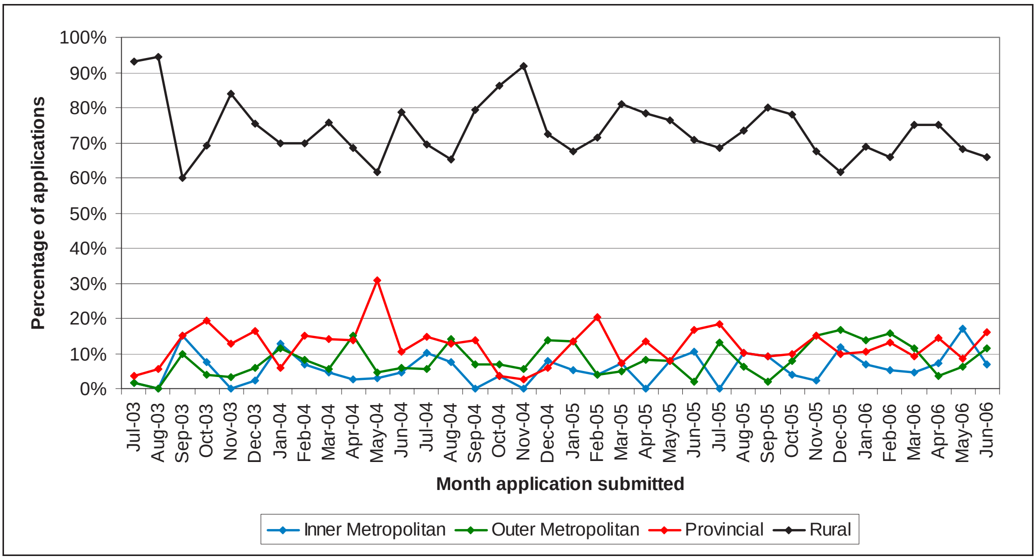
Source: ANAO analysis of DOTARS and Australian Electoral Commission data.

Demographic distribution of applications

5:3.19 As Figure 5:3.3 illustrates, although there has been some variation over time, the largest proportion (73 per cent) of applications submitted over the first three years related to projects located in electorates categorised by the Australian Electoral Commission as 'rural'. Applicants in provincial electorates submitted 13 per cent of applications; eight per cent in outer metropolitan and six per cent in inner metropolitan electorates. This overall pattern is consistent with the focus on regional and rural communities identified in the Programme Guidelines and the *Stronger Regions, A Stronger Australia* Statement on which the Programme is based An exception in this respect occurred in May 2004, when there was a significant increase in the proportion of applications submitted in Provincial electorates (20 of 64 applications, representing 31 per cent compared to a monthly average of 12 per cent).

Figure 5:3.3

Percent of applications submitted by demographic of electorate



Source: ANAO analysis of DOTARS' data.

5:3.20 Analysis of the distribution of applications from rural seats shows that Liberal and National Party-held electorates were slightly over-represented compared to the proportion of rural seats held. Conversely, Labor-held electorates were under-represented in the applications, particularly in the period prior to the 2004 election (see Table 5:3.2).

Table 5:3.2

Proportion of rural seats pre and post the 2004 election compared to proportion of applications from rural seats to 30 June 2006

Party	Proportion of rural seats		Proportion of applications from rural seats	
	Pre 2004 election	Post 2004 election	Pre 2004 election	Post 2004 election
Labor	11%	9%	5%	7%
Liberal	52%	57%	56%	57%
National	30%	27%	32%	28%
Independent	7%	7%	7%	8%

Source: ANAO analysis of DOTARS and Australian Electoral Commission data.

Distribution of approved funding

5:3.21 Between 1 July 2003 and 30 June 2006, funding approved for expenditure through the Regional Partnerships Programme totalled $182.9 million (GST exclusive).[625] Of that, $14.1 million related to projects which could not be accurately attributed to a single demographic area or party-political electorate due to being spread across multiple locations. Those projects are largely excluded from the following analysis.[626]

5:3.22 An important characteristic of the Regional Partnerships Programme in this regard is the absence of funding rounds. As a result, applications are considered in relative isolation. Accordingly, unlike the approach taken in respect to some grants programmes in which there is a stated objective of seeking to achieve an even distribution of funding across the States and Territories,[627] the Regional Partnerships Programme Guidelines do not articulate any objectives regarding the geographic distribution of funding.

5:3.23 However, the performance indicators identified for the Regional Partnerships Programme over its first five years have included a quantity and/or location indicator relating to the geographic spread of approved grants. The relevant indicator for 2007-08 is: ‘Projects are established in every region of Australia (56 regions)’.

5:3.24 Two of the four Programme objectives have allowed for explicit consideration in the assessment and approval process of the characteristics of the community in which a particular project was located. They were:

- the objective to ‘improve access to services’, which identifies a particular focus on those communities in regional Australia with a population of less than 5 000; and
- the objective to ‘help communities make structural adjustments’, which allows funding to be considered for projects that would provide

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[625] A further $29 million was approved in relation to projects that were the subject of election commitments during the 2004 Federal election.

[626] Two multi-electorate projects, involving $10.8 million (plus GST) and $198 000 (plus GST) in approved funding respectively, have been included in this analysis as, for each, both relevant electorates were rural seats held by the National Party at the time funding was approved.

[627] For example, see discussion in this respect relating to the Volunteer Small Equipment Grant programme administered by the Department of Families, Community Services and Indigenous Affairs, in ANAO Audit No.39 2006–07, op. cit., pp 79-86.

transitional assistance to communities affected by major economic, social or environmental change.

5:3.25 From 2006–07, the Australian Government also commenced articulating annual priorities for funding under the programme which ACCs are encouraged to address through projects put forward for funding. Two of the four priority areas identified for 2006–07 related to the nature of the community in which projects would be located, being:[628]

- small or disadvantaged communities, in relation to which the July 2006 Programme Guidelines advised:

  > Small communities and communities suffering economic or social disadvantage have the potential to be overlooked. These communities are particularly encouraged to develop projects that can address inadequacies in local community infrastructure and services; and

- Indigenous communities, in relation to which the July 2006 Programme Guidelines advised:

  > Indigenous communities are amongst the most disadvantaged in Australia. The Government is seeking ways in which the needs of these communities can be better met. These communities are encouraged to develop projects that are tailored to address their unique circumstances. Applications that assist Indigenous communities to make use of *Shared Responsibility Agreements* and demonstrate consultation with Indigenous Coordination Centres are encouraged.

5:3.26 Priorities of this nature were not articulated during the first three years of the Programme ending 30 June 2006, being the period examined by ANAO.

5:3.27 Figure 5:3.4 sets out the proportion of Regional Partnerships applications submitted by applicants in each State and Territory between July 2003 and June 2006, and the proportion of approved funding[629] obtained by each, compared to the proportion of total population.

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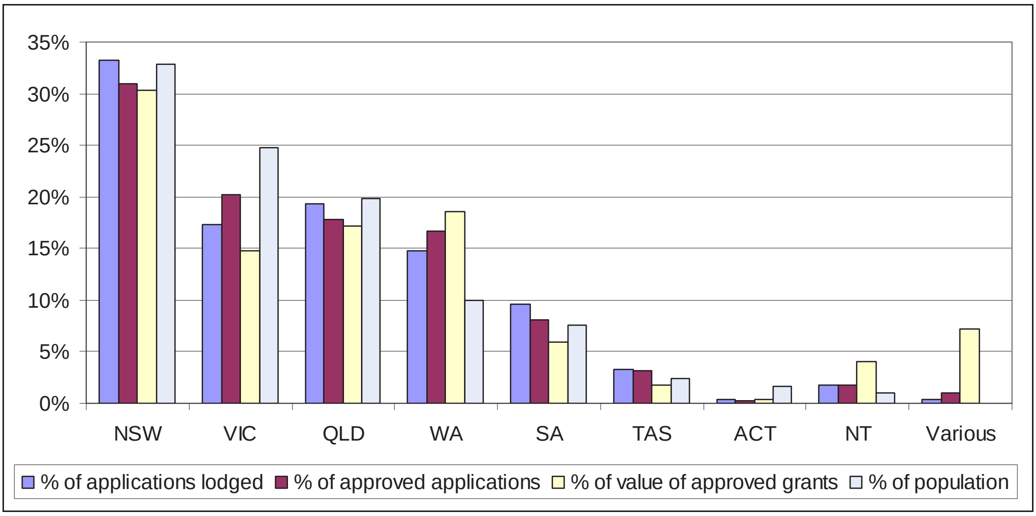
[628] The other two priority areas identified for 2006–07 were ‘economic growth and skill development’ and ‘youth’.

[629] This analysis excludes funding approved in respect of election commitments, which were not subject to the normal application and assessment process.

Figure 5:3.4

Geographic distribution of applications and approved grants: July 2003 to June 2006



Source: ANAO analysis of DOTARS and Australian Bureau of Statistics data.

Distribution of approved funding by electorate

5:3.28 Given the discretionary nature of Ministerial approvals under the Regional Partnerships Programme, the distribution of approved funding across party electorates is one measure of equity of access, as is the extent to which approved projects correlate with the pattern of applications.

5:3.29 Table 5:3.3 compares the overall proportion of approved applications to the proportion of applications submitted in electorates held by each party.

Table 5:3.3

Overall application approvals by political party: July 2003 to June 2006

Party	Pre-2004 election			Post-2004 election			Total to 30 June 2006		
	Proportion of applications	Proportion of approvals		Proportion of applications	Proportion of approvals		Proportion of applications	Proportion of approvals	
		Applications	Funding		Applications	Funding		Applications[B]	Funding
Labor	19.2%	18.7%	15.7%	20.3%	19.1%	16.6%	19.8%	18.9%	16.1%
Liberal	51.1%	54.4%	40.0%	52.9%	54.6%	59.9%	51.9%	54.5%	49.3%
National	23.0%	19.9%	22.1%	20.4%	20.4%	18.2%	21.8%	20.1%	20.3%
Independent	5.0%	5.0%	7.9%	5.6%	5.0%	3.8%	5.3%	5.0%	6.0%
Other parties	1.1%	0.9%	0.8%	0.6%	0.2%	0.4%	0.8%	0.5%	0.6%
Various	0.6%	1.1%	13.5%[A]	0.2%	0.7%	1.1%	0.4%	1.0%	7.7%
Total	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**
Coalition	*74.1%*	*74.3%*	*62.1%*	*73.3%*	*75.0%*	*78.1%*	*73.7%*	*74.6%*	*69.6%*

Notes

[A]: This figure is significantly influenced by the $12.734 million grant relating to the contribution from Regional Partnerships Programme funding to the Sugar Industry Reform Programme—Sustainability Grant project. Those funds were paid to the Department of Agriculture, Fisheries and Forestry to administer.

[B] Slight differences between these percentages and the percentages of approvals set out in Table 2:2.3 are due to the omission in Table 2:2.3 of approvals that were given prior to a departmental assessment of the project against the Programme Guidelines being undertaken.

Source: ANAO analysis of DOTARS data.

Success rates between parties

5:3.30 There is little difference in the overall rate at which applications submitted by applicants in electorates held by the various parties were approved for funding over the full three years examined to 30 June 2006, with the respective overall success rates being:

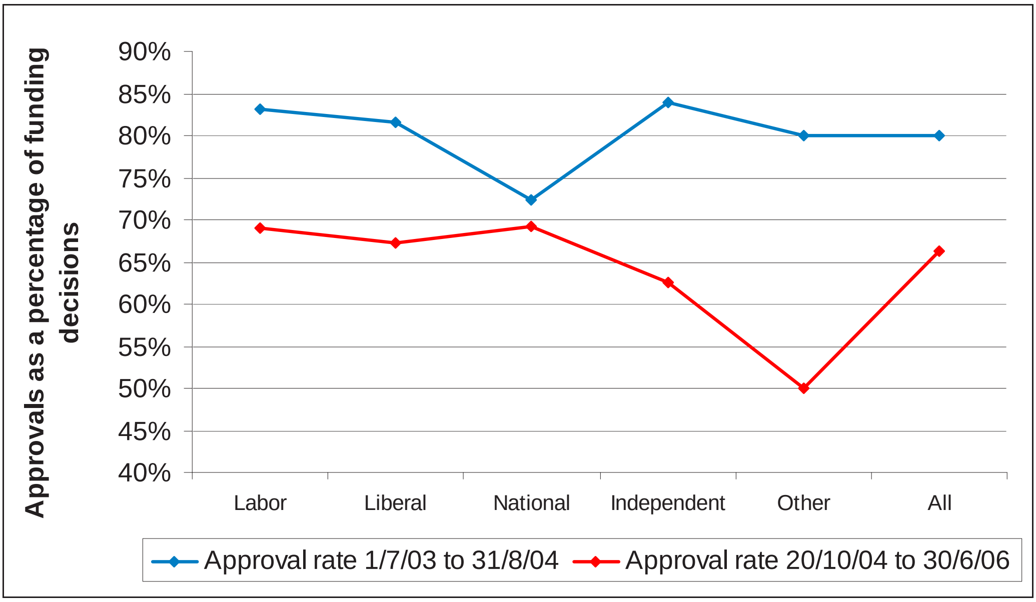
- 72 per cent for applicants in Labor and Liberal-held electorates;
- 70 per cent for applicants in National part-held electorates;
- 69 per cent for applicants in Independent-held electorates; and
- 71 per cent for applicants in electorates held by other parties.

5:3.31 Figure 5:3.5 shows the rate at which applications that proceeded to a Ministerial funding decision were approved in electorates held by each party during the period July 2003 to 31 August 2004 (the start of the caretaker period for the 2004 election) and during the period following the election ending 30 June 2006. That analysis identifies that:

- there was little difference in approval rates in electorates held by various parties prior to the 2004 election (between 80 and 83 per cent), apart from a lower approval rate in National Party-held seats (72 per cent). That trend was to some extent offset by the high rate at which applications were received from applicants in those electorates compared to the proportion of seats held by the National Party (see Table 5:3.1 earlier in this chapter); and
- there was a substantial reduction in approval rates in the period following the election to 30 June 2006 in all electorates (to between 50 and 69 per cent), except for National Party-held seats which experienced an only slightly lower approval rate (69 per cent). The most substantial reduction in approval rates in the period since the election occurred in electorates held by Independents and other minor parties.

Figure 5:3.5

Success rates by party electorate: July 2003 to June 2006



Source: ANAO analysis.

Demographic distribution

5:3.32 The total funding and average grant approved in each type of electorate demographic, by political party, in the periods before and after the October 2004 Federal election to 30 June 2006 are identified in Table 5:3.4.

Table 5:3.4

Total approved funding and average grant by demographic (excluding funding for election commitment projects)

Electorate type	1 July 2003 to 31 August 2004		22 October 2004 to 30 June 2006	
	Total funding approved	Average size of approved grant	Total funding approved	Average size of approved grant
Rural	***$64.67m (66.5%)***	***$209 968***	***$66.11m (77.2%)***	***$159 309***
Labor	$5.62m (9%)	$330 813	$3.37m (5%)	$134 889
Liberal	$29.88m (46%)	$160 631	$43.89m (66%)	$176 983
National	$21.48m (33%)	$255 746	$15.56m (24%)	$136 491
Independent	$7.69m (12%)	$366 019	$3.29m (5%)	$117 472
Provincial	***$13.53m (13.9%)***	***$214 717***	***$7.46m (8.7%)***	***$124 327***
Labor	$7.54m (56%)	$198 410	$4.46m (60%)	$123 865
Liberal	$5.92m (44%)	$246 455	$3.00m (40%)	$125 021
Other	$0.07m (1%)	$72 700	n/a	n/a
Outer Metropolitan	***$3.53m (3.6%)***	***$141 137***	***$7.05m (8.2%)***	***$133 040***
Labor	$0.83m (24%)	$83 449	$3.04m (43%)	$136 168
Liberal	$2.70m (76%)	$179 596	$4.01m (57%)	$129 402
Inner Metropolitan	***$2.39m (2.5%)***	***$108 782***	***$4.02m (4.7%)***	***$143 573***
Labor	$1.22m (51%)	$87 177	$3.32m (83%)	$138 415
Liberal	$0.44m (18%)	$88 545	$0.36m (9%)	$121 033
Other	$0.73m (31%)	$243 333	$0.34m (8%)	$335 000
Various	***$13.13m (13.5%)***	***$2 626 786***[A]	***$0.98m (1.2%)***	***$245 170***
Total	**$97.25 million**	**$229 912**	**$85.62 million**	**$152 901**

Note A: This average is significantly influenced by the $12.734 million grant relating to the contribution from Regional Partnerships Programme funding to the Sugar Industry Reform Programme—Sustainability Grant project. Those funds were paid to the Department of Agriculture, Fisheries and Forestry to administer.

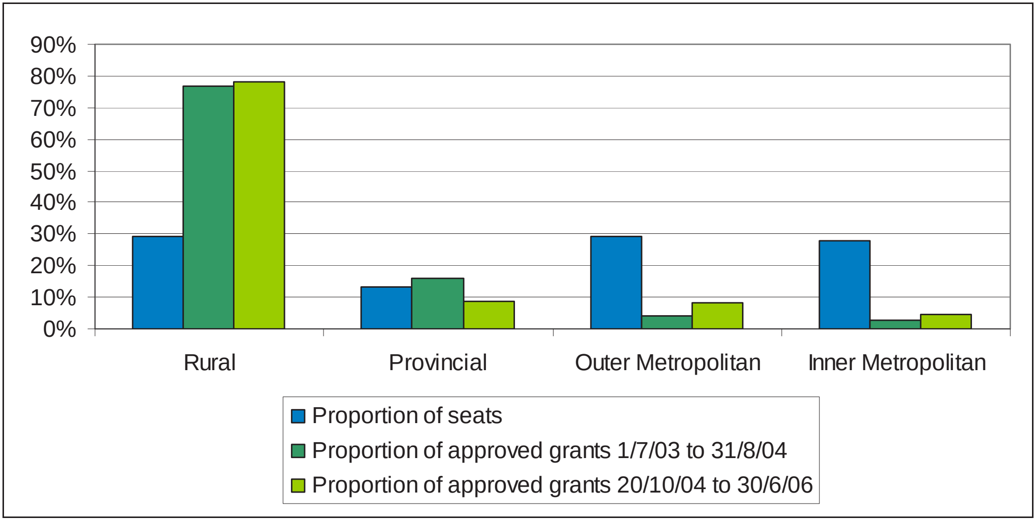
Source: ANAO analysis of DOTARS data.

5:3.33 As Table 5:3.4 illustrates, consistent with the high rate of applications submitted in rural electorates, excluding funding approved for projects located in various electorates, rural electorates received 77 per cent of funding approved between July 2003 and August 2004 and 78 per cent of funding approved between October 2004 and June 2006 (no grants were approved during September 2004 due to the caretaker period for the 2004 election).

5:3.34 Figure 5:3.6 illustrates the proportion of funding approved in each demographic compared to the proportion each type of seat represents in the House of Representatives, excluding grants approved for projects located across various electorate types.

Figure 5:3.6

Demographic distribution of approved funding: July 2003 to June 2006 (excluding grants approved across various electorate demographics)



Source: ANAO analysis of DOTARS and Australian Electoral Commission data.

5:3.35 A notable feature of the Programme has been the considerable variation in success rates for applications from the various types of electorate demographic. Further, while the proportion of applications considered for funding approval from each type of electorate demographic remained quite similar in the period following the election to that which occurred prior to the 2004 election, there has been a considerable reduction in the rate at which applications from all types of electorate other than Outer Metropolitan electorates have been successful since the 2004 election. Further, the trend in respect to Outer Metropolitan applications has differed between Labor and Liberal electorates (see Table 5:3.5).

Table 5:3.5

Success rates pre- and post-2004 election by party and demographic

Party	Rural		Provincial		Outer Metropolitan		Inner Metropolitan	
	Pre	Post	Pre	Post	Pre	Post	Pre	Post
Labor	77%	79%	90%	64%	63%	74%	93%	63%
Liberal	82%	67%	80%	67%	79%	67%	71%	50%
National	72%	68%	n/a	n/a	n/a	n/a	n/a	n/a
Independent	84%	61%	n/a	n/a	n/a	n/a	n/a	n/a
Other	n/a	n/a	50%	n/a	n/a	n/a	100%	50%
Overall	79%	67%	85%	63%	71%	70%	85%	60%

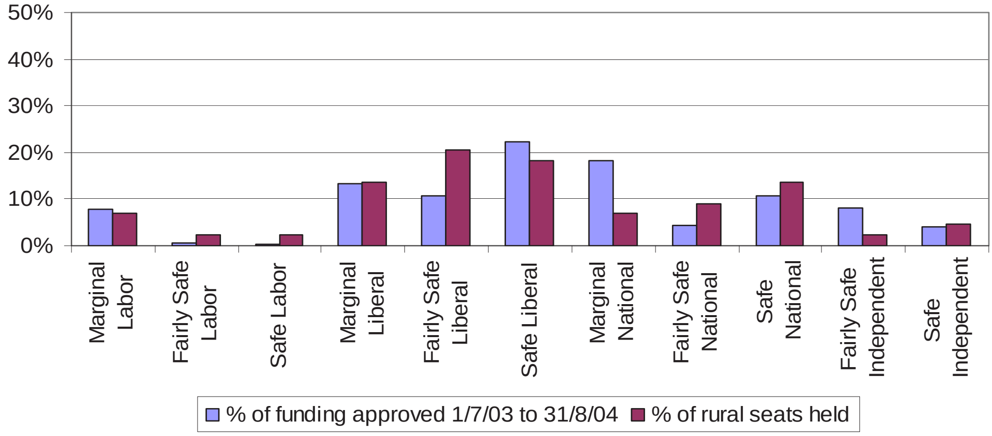
Source: ANAO analysis.

5:3.36 The distribution of funding approved in each demographic in the periods before and after the 2004 election (excluding grants approved for multiple electorate types) compared to the proportion of relevant seats held by each party, applying the classifications assigned to each electorate by the Australian Electoral Commission, is set out in Figure 5:3.7 and Figure 5:3.8.

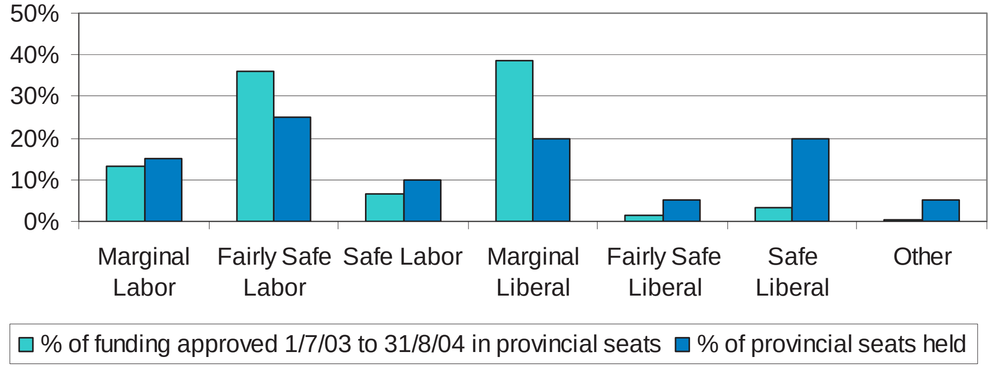
Figure 5:3.7

Distribution of approved funding: July 2003 to August 2004

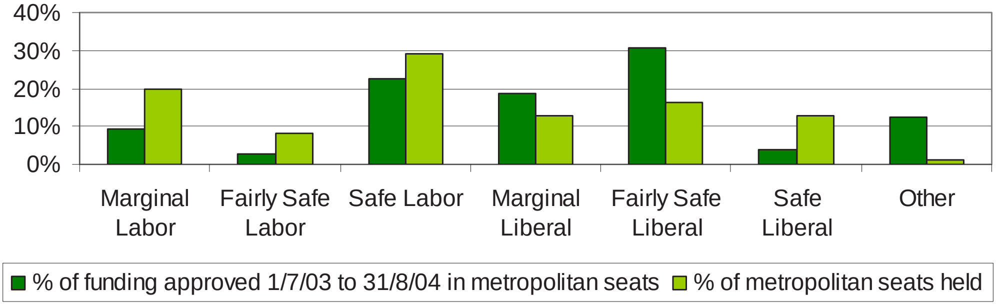
Rural Seats



Provincial seats



Metropolitan seats

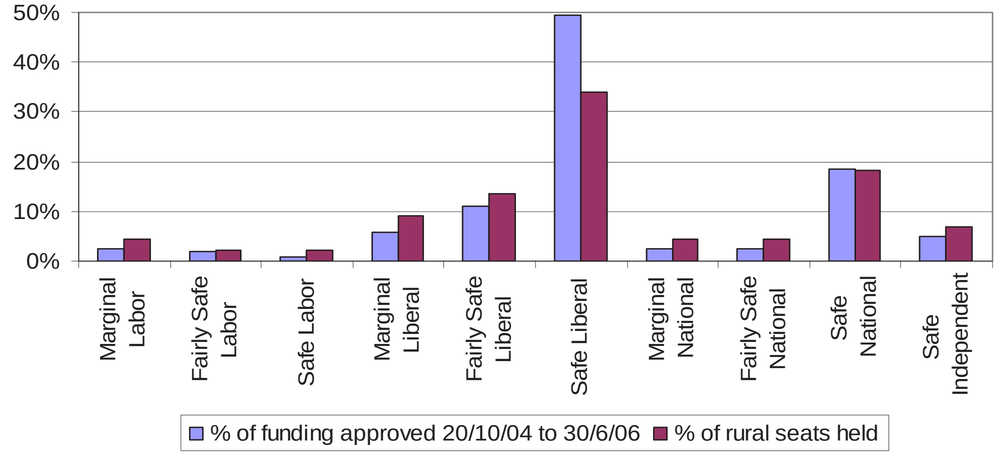


Source: ANAO analysis of DOTARS and Australian Electoral Commission data.

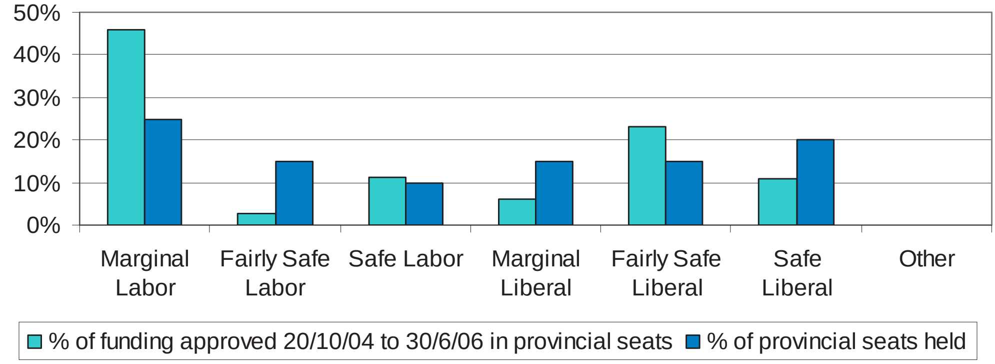
Figure 5:3.8

Distribution of approved funding: October 2004 to June 2006

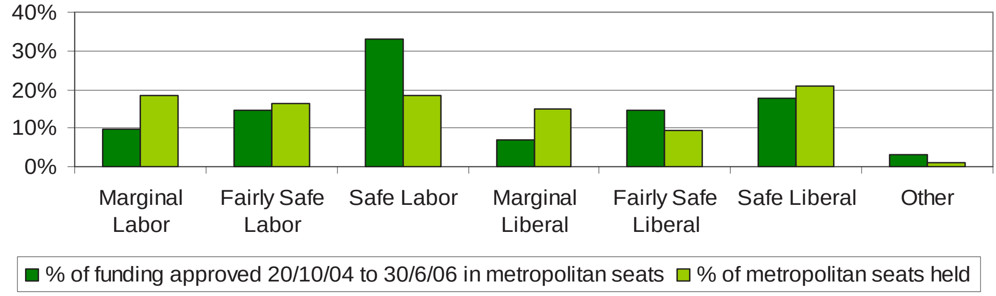
Rural Seats



Provincial seats



Metropolitan seats



Source: ANAO analysis of DOTARS and Australian Electoral Commission data.

Approved grants per electorate

5:3.37 As at 30 June 2006, no Regional Partnerships funding had been approved in 29 of the 150 electorates, all of which were metropolitan electorates. No applications were submitted in twelve of those electorates, three of which were held by Labor and nine by the Liberal party as at 30 June 2006 (two of those had been held by Labor prior to the 2004 election). In a further four electorates (two Labor and two Liberal), all submitted applications were withdrawn prior to proceeding to Ministerial consideration. There were 13 electorates (seven Labor and six Liberal) in which either one or two applications proceeded to a funding decision, of which none were approved.

5:3.38 Table 5:3.6 identifies the ten electorates (6.7 per cent of electorates) that received the highest number of grants approved between July 2003 and June 2006 (excluding grants relating to election commitments). Together, those ten electorates accounted for 34 per cent of approved grants and 31.1 per cent of approved funding to 30 June 2006 (excluding funding approved to projects located in various electorates). All ten electorates in Table 5:3.6 were rural seats held by Coalition parties.

Table 5:3.6

The ten electorates with the highest number of approved grants to 30 June 2006 (excluding election commitments)

Electorate	Number of applications (including withdrawn)	Number Approved	Total Value ($)	Avg. Grant ($)	Success rate	
					Pre-election	Post-election
Kalgoorlie	94	50	8 412 572	168 251	79%	56%
O'Connor	84	50	11 655 704	233 114	82%	74%
Gwydir	66	33	4 446 556	134 744	61%	69%
Barker	58	33	2 990 349	90 617	87%	63%
Indi	40	30	4 566 456	152 215	93%	80%
Eden-Monaro	55	29	3 025 209	104 318	80%	62%
Forrest	41	29	4 096 200	141 248	100%	68%
Mallee	36	27	2 014 031	74 594	100%	85%
Gilmore	36	25	4 971 272	198 851	71%	88%
Maranoa	53	25	6 341 416	253 657	60%	84%

Source: ANAO analysis of DOTARS' records.

5:3.39 The electorates with the highest number of grants approved to 30 June 2006, Kalgoorlie and O'Connor, were both located in Western Australia. Combined, those electorates accounted for 10.2 per cent of approved grants and 11 per cent of approved funding between July 2003 and June 2006 ($20.07 million). Those electorates had also generated the highest numbers of applications—94 from Kalgoorlie, of which 75 proceeded to Ministerial consideration, and 84 from O'Connor, of which 65 proceeded to Ministerial consideration.

5:3.40 The remaining eight electorates in Table 5:3.6 had a total of 231 grants approved (excluding election commitments) totalling $32.45 million, accounting for a further 23.5 per cent of total approved grants and 17.7 per cent of approved funding. These comprised a further Western Australian electorate, three New South Wales electorates; two Victorian electorates and one each in South Australia and Queensland.

5:3.41 By way of comparison, the non-Coalition rural electorate with the highest number approved grants (excluding election commitments) is the Northern Territory Labor seat of Lingiari, which had 14 approved grants to 30 June 2006, totalling $6 214 771 (at a success rate of 100 per cent prior to the election and 86 per cent post the election.

5:3.42 The non-Coalition electorate that had received the highest number of approved grants to 30 June 2006 was the Queensland Labor provincial seat of Capricornia, which had 21 grants approved to 30 June 2006 for total approved funding of $5 450 825. Of that, $4 695 086 (86 per cent) was approved prior to the 2004 election (between 13 May 2004 and 31 August 2004). Of the 14 projects in that electorate on which a funding decision was made prior to the 2004 election, 13 (93 per cent) were approved. This included two projects that have been the subject of ANAO case studies:

- RP01101 Beef Australia 2006, for which funding of $2 200 000 (excluding GST) was approved by the then Minister for Transport and Regional Services on 10 June 2004 prior to DOTARS receiving information that would enable it to assess the project against the assessment criteria relating to outcomes, partnerships and support, and applicant and project viability set out in the Regional Partnerships Programme Guidelines. A truncated departmental assessment was subsequently undertaken in six days, with the then Parliamentary Secretary then endorsing the Minister's earlier funding approval; and

- RP00908 Lakes Creek Upgrade, which the department had recommended not be approved. The then Parliamentary Secretary disagreed and approved funding of $600 000 (excluding GST) on 1 July 2004 on the basis that competitive neutrality concerns had been addressed, including through discussions with unnamed meatworks. On 26 July 2004, the proprietor of the other major meatworks in Rockhampton wrote to the then Minister for Transport and Regional Services raising concerns that the provision of Regional Partnerships funding for the Lakes Creek Upgrade project breached the Regional Partnerships Guidelines as they pertained to competitive neutrality.

5:3.43 The Australian Electoral Commission-identified status of that electorate changed from 'Fairly Safe Labor' prior to the 2004 election to 'Marginal Labor' after that election. In the period October 2004 to June 2006, eight (73 per cent) of the 11 applications in Capricornia on which a funding decision had been taken were approved for a total of $755 739.

Application processes

5:3.44 In respect to applications for Regional Partnerships funding, in the report of its inquiry, the Senate Committee concluded that:

> …while the proportion of Regional Partnerships grants approved is similar across Government, Opposition and Independent electorates, there are substantial differences in the number of projects put forward and amount of funding approved. The Committee asked DOTARS to consider, in consultation with the ACCs, possible reasons for the difference in the number of applications coming forward across electorates. In May 2005, the department advised that it 'is currently looking at options for including this issue in future evaluation activities for the programmes'.
>
> The Committee expects DOTARS to report to the Committee both the option it adopts for assessing this issue and the results of the evaluation. The Government should examine the evaluation results and identify mechanisms to address the equity of funding considerations.[630]

5:3.45 The mid-term (Stage Two) evaluation of the Regional Partnerships Programme was completed by DOTARS in November 2006. Notwithstanding the above advice provided to the Senate Committee by the department in May 2005, the report of the evaluation did not address possible reasons for the

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[630] Senate Committee Report, op. cit., p. 202.

difference in the number of applications that have come forward across electorates.

5:3.46 Because there are no funding rounds, after the initial announcement of the Programme on 26 June 2003 by the then Ministers for Transport and Regional Services and Regional Services, Territories and Local Government, there were no events to trigger applications such as:

- media advertisements or media releases announcing the opening of a round to encourage applications; or
- mail-outs from the responsible Minister(s) to Members and Senators inviting them to encourage entities within their electorates or State to submit applications (as occurs in some grants programmes).

5:3.47 Instead, the primary means of promoting access to the Regional Partnerships Programme are:

- the ACC network, including ACC websites and the promotional material distributed by that network;[631]
- DOTARS' Regional Partnerships website;
- the Australian Government Regional Information Directory and the Australian Government GrantsLINK web site; and
- media releases by the responsible Minister or local Members announcing funding approval for individual applications.

Departures from documented application procedures

5:3.48 In jointly announcing the Regional Partnerships Programme, the then Minister for Transport and Regional Services and the then Minister for Regional Services, Territories and Local Government stated:

> Regional Partnerships integrates all of the Government's key regional funding programmes, except Sustainable Regions, into one simple programme…
>
> …Under Regional Partnerships there is one set of guidelines and one simple application process to make it as easy as possible to apply for Federal Government funding support.[632]

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[631] In this respect, DOTARS' submission to the Senate Committee inquiry stated that 'An important role of ACCs is to identify and facilitate projects for funding under Regional Partnerships.' Source: DOTARS, *Inquiry into the Regional Partnerships Programme and Sustainable Regions Programme— Submission by the Department of Transport and Regional Services*, 28 January 2005, p. 14.

5:3.49 In terms of the 'one simple' application process foreshadowed by the Ministers, in its submission to the Senate Committee inquiry, DOTARS stated that:

> Once the project proposal is fully developed by the applicant, with ACC assistance if the applicant chooses, the applicant can lodge their application in a number of ways. This can be done on line via the TRAX system, with an electronic 'smart' form that is available on the Regional Partnerships' website, or through filling out a hard copy form and submitting it to the department (that will be manually entered into TRAX). Applications for funding of $25 000 or less can be submitted on a shortened application form and are subject to a streamlined process.[633]

5:3.50 The various versions of the Internal Procedures Manual have outlined how the information provided by applicants is to be used to inform project assessments and be incorporated into the Funding Agreement. Where appropriately implemented, these steps and processes provide a sound underpinning for the identification and assessment of outcomes proposed for individual projects, thereby contributing to the promotion of overall Programme outcomes. However, there have been a number of projects that have been approved for funding that did not proceed through the application processes advised to the Senate Committee and documented in DOTARS' Internal Procedures Manual for the Programme.

5:3.51 For example, some projects have been approved or put forward for Regional Partnerships funding by Government prior to an application to the Programme being made. ANAO's audit sample also included a number of projects where funding was obtained as a result of direct representations by project proponents or local Members rather than through the submission through the relevant ACC or DOTARS of a Regional Partnerships application.

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[632] Joint Media Release, The Hon John Anderson MP, Deputy Prime Minister, Minister for Transport and Regional Services and The Hon. Wilson Tuckey MP, Minister for Regional Services, Territories and Local Government, *A New Regional Partnership*, 26 June 2003.

[633] DOTARS, *Inquiry into the Regional Partnerships Programme and Sustainable Regions Programme—Submission by the Department of Transport and Regional Services*, 28 January 2005, pp. 14–15.

Recommendation No.17

5:3.52 ANAO *recommends* that the Department of Transport and Regional Services seek to promote equitable access to Regional Partnerships funding by developing, for Ministerial Committee consideration, proposals for more effective promotion of the availability of funding under the Programme including material for all Members of Parliament.

DOTARS response

5:3.53 Agreed.

5:4 Project Monitoring

This chapter examines the administrative framework for monitoring progress by funding recipients in undertaking projects for which Regional Partnerships funding has been approved.

Introduction

5:4.1 Integral to the success of the grant funding process is an on-going monitoring regime to ensure funding recipients are meeting agreed milestones and other key requirements of their funding agreements.[634] Monitoring is important throughout the project cycle, from the implementation stage through on-going management to post-implementation evaluation.[635]

5:4.2 As noted in Table 5:1.1, since 2005–06 one of the department's Regional Partnerships Programme quality performance indicators was: 'Payments are made in line with project progress and Funding Agreements'. The financial management aspects of this indicator were addressed in Chapter 2 in this part of the audit report. This chapter examines the monitoring of Regional Partnerships projects' progress through Funding Agreements. DOTARS' reporting against this quality indicator in its 2004–05 and 2005–06 Annual Reports is outlined in Table 5:4.1.

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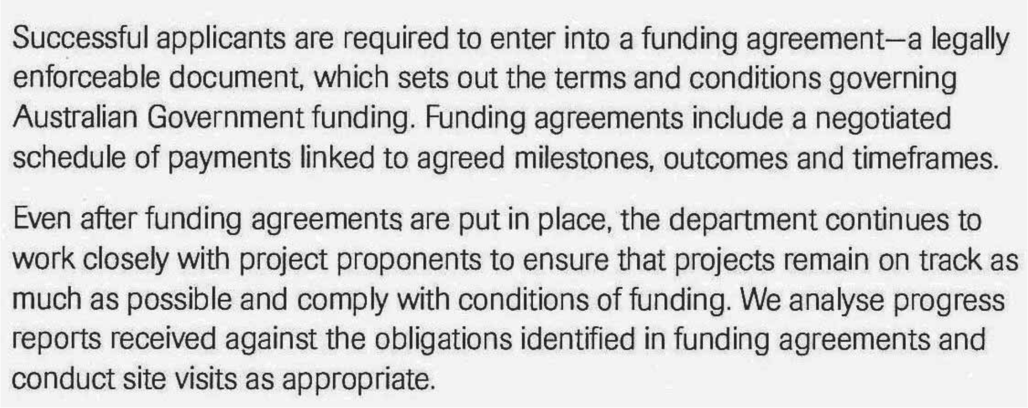
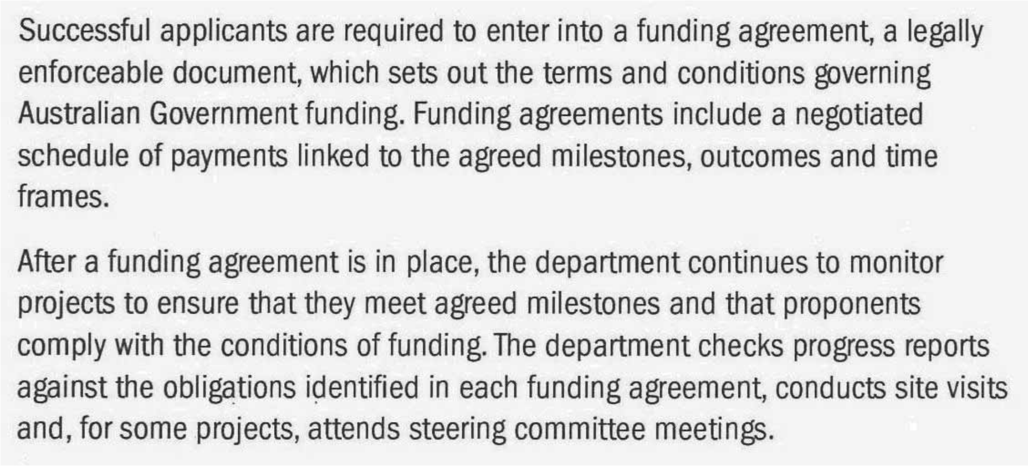
[634] ANAO Audit Report No.47 2005–06, *Funding for Communities and Community Organisations*, Canberra, 21 June 2006, p. 74.

[635] ibid., p. 75.

Table 5:4.1

DOTARS’ performance reporting on project monitoring activities

2004–05
 Successful applicants are required to enter into a funding agreement—a legally enforceable document, which sets out the terms and conditions governing Australian Government funding. Funding agreements include a negotiated schedule of payments linked to agreed milestones, outcomes and timeframes. Even after funding agreements are put in place, the department continues to work closely with project proponents to ensure that projects remain on track as much as possible and comply with conditions of funding. We analyse progress reports received against the obligations identified in funding agreements and conduct site visits as appropriate.
2005–06
 Successful applicants are required to enter into a funding agreement, a legally enforceable document, which sets out the terms and conditions governing Australian Government funding. Funding agreements include a negotiated schedule of payments linked to the agreed milestones, outcomes and time frames. After a funding agreement is in place, the department continues to monitor projects to ensure that they meet agreed milestones and that proponents comply with the conditions of funding. The department checks progress reports against the obligations identified in each funding agreement, conducts site visits and, for some projects, attends steering committee meetings.

Source: DOTARS Annual Report 2004–05 (p. 119) and DOTARS Annual Report 2005–06 (p. 135).

5:4.3 As illustrated by Table 5:4.1, in its performance reporting, DOTARS has not provided any analysis or assessment of the extent or timeliness with which progress reports have been obtained from funding recipients as part of its monitoring of projects. DOTARS’ performance reporting has also not addressed the extent to which site visits have been conducted. These issues are examined further in the remainder of this chapter.

Monitoring framework

5:4.4 The ANAO Administration of Grants Better Practice Guide advocates a risk-based approach to project monitoring, as follows:

> Responsibility for monitoring grant programs is often best decentralised. However, this increases the risk of inconsistency in monitoring processes. This can be avoided by:
>
> - setting standards for frequency, consistency and quality of monitoring and ensuring that these are met at all locations; and
> - reviewing the scope and completeness of the monitoring actually carried out and watching for any backlog of unmonitored cases.
>
> The extent and timing of monitoring can be a challenge, particularly for smaller grant programs with limited resources, and for programs funding a large number of relatively low-value grants. Effective risk identification and analysis can help to define the extent, timing and frequency of monitoring in these circumstances.[636]

5:4.5 In September 2003, DOTARS finalised a monitoring methodology for Regional Partnerships projects. It recognised the need to explicitly address risk in a grants programme. As illustrated by Table 5:4.2, the monitoring methodology was multi-layered so as to recognise the variable risk profile of projects based primarily, but not wholly, on the size of the Regional Partnerships grant and the nature of the funding recipient. This was a reasonably sound approach to project monitoring. It was intended that the agreed monitoring methodology for Regional Partnerships projects be reflected in an update to the Internal Procedures Manual. However, this did not occur until June 2004.

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[636] ANAO Better Practice Guide-Administration of Grants, op. cit., p. 57.

Table 5:4.2

DOTARS' approved project monitoring methodology: September 2003 to June 2007

Funding Level	Local Government	Not-for-Profit Organisations	Not-for-Profit—Commercial Activity	Small Private Sector	Large Private Sector
Up to $50 000	Low Risk Desk Top monitoring of performance against milestones—On-site visits where problems identified	Low Risk Desk Top monitoring of performance against milestones—On-site visits where problems identified	Standard Monitoring—Desk Top monitoring of performance against milestones—(min 1 site visit in life of project)	Standard Monitoring—Desk Top monitoring of performance against milestones—(min 1 site visit in life of project)	Standard Monitoring—Desk Top monitoring of performance against milestones—(min 1 site visit in life of project)
$50 000 to $250 000	Standard Monitoring—Desk Top monitoring of performance against milestones—(min 1 site visit in life of project)	Standard Monitoring—Desk Top monitoring of performance against milestones—(min 1 site visit in life of project)	Standard Monitoring—Desk Top monitoring of performance against milestones—(min 1 site visit in life of project)	Standard Monitoring—Desk Top monitoring of performance against milestones—(min 1 site visit in life of project)	Standard Monitoring—Desk Top monitoring of performance against milestones—(min 1 site visit in life of project)
>$250 000	ROs to develop Monitoring plan to co-ordinate visit schedule with milestone schedule. Random visits by RO and NO.	ROs to develop Monitoring plan to co-ordinate visit schedule with milestone schedule. Random visits by RO and NO.	ROs to develop Monitoring plan to co-ordinate visit schedule with milestone schedule. Random visits by RO and NO.	ROs to develop Monitoring plan to co-ordinate visit schedule with milestone schedule. Random visits by RO and NO.	ROs to develop Monitoring plan to co-ordinate visit schedule with milestone schedule. Random visits by RO and NO.

Source: DOTARS Regional Partnerships Internal Procedures Manual, September 2005, p. 135.

Resources for administration

5:4.6 The ANAO Administration of Grants Better Practice Guide states that:

> Insufficient administrative resources to manage grant programs increase the risk that the program's objectives may not be achieved in an efficient, effective and timely manner. Furthermore, a failure to identify and monitor the actual administrative costs of a grant program creates problems for the accountability and transparency of the program and frustrates effective planning and continuous improvement of like programs. On the other hand, the application of too much administrative effort is not an efficient use of funds and could divert expenditure away from the effective achievement of the objectives of the grant program.[637]

5:4.7 The Better Practice Guide notes that there is no apparent benchmark for the ratio of administrative costs to programme costs and that administrative costs will vary according to a number of variables, as follows:

- small programmes will have a higher proportion of fixed costs than large programmes, which will raise the proportion of administrative costs to programme funds;
- the risks of individual projects or programmes may require more costly risk treatments including closer monitoring. For example, quantity surveyor or similar advice should be considered when appraising applications for major capital grants and grants for commercial or quasi-commercial projects may require specialist business advice; and
- where grants are delivered through devolved or networked structures, the administrative costs of all the administering organisations need to be considered.[638]

5:4.8 In April 2007, DOTARS advised ANAO that departmental costs for administering the Regional Partnerships Programme represented approximately 15 per cent of the appropriated Administered funds (rising to 37 per cent if the cost of ACCs is solely attributed to Programme administration). Similarly, in May 2007, DOTARS advised ANAO that it currently expends around $1 to administer every $6 of administered Regional Partnerships funds.

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[637] ANAO Better Practice Guide-Administration of Grants, op. cit., pp. 14–15.

[638] ibid., p. 14.

Programme efficiency review

5:4.9 As noted, in light of a significant expected under-spend against the 2003–04 administered annual appropriation allocated to the Regional Partnerships Programme, in March 2004 the Government requested a review of the Programme to examine options to improve the efficiency of administration and ensure that appropriated funds were more fully expended each year. On 2 December 2004, the Senate referred to the Senate Committee an inquiry into the Regional Partnerships Programme. The conduct of the review requested by the Government in March 2004 was deferred pending completion of the Senate inquiry.

5:4.10 The Senate Committee's report, presented to the Senate on 6 October 2005, did not raise any concerns about the cost of administering the Regional Partnerships Programme. Rather, the Committee concluded that the governance framework required strengthening through adherence to the usual application development and assessment measures and tightening of these measures, combined with improved accountability and transparency measures.[639]

5:4.11 The Hon. Warren Truss MP had become Minister for Transport and Regional Services on 6 July 2005. After observing the operation of the Programme, Minister Truss came to the view that there would be merit in adjusting aspects of its operation to improve its effectiveness and address public criticisms. In this respect, on 26 October 2005, DOTARS provided the then Minister with options for discussion to address concerns he had indicated with the operation of the Programme. DOTARS' records state that these concerns related to:

- the scope for cost shifting by State and local governments where projects are proposed in areas of their core responsibility;
- poor quality projects, particularly infrastructure development in areas where access to commercial finance was unlikely to be a problem;
- consistency in project assessments and approvals and, in this respect, whether quarterly batching of projects would make judgements about consistency more transparent;

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[639] Senate Committee Report, op. cit., p. 197.

- the most appropriate role for the ACCs, including how they could be encouraged to assess projects more rigorously (noting that, on average, ACCs rated projects they supported as high priority around 75 per cent of the time); and
- the cost of project administration.

5:4.12 In response to Ministerial concerns about the cost of project administration, DOTARS advised the then Minister that some 130 staff were directly responsible for the delivery of the Programme, including 82 staff in 11 Regional Offices. DOTARS further advised that this represented an administrative cost of $0.15 for every dollar of expenditure on Regional Partnerships projects but that:

> While there is likely to be some scope to reduce administrative costs, a programme which needs to anticipate assessment of an infinite number of project types and characteristics and which provides funding to groups often with limited capability to develop, present, manage and account for a project means that the Programme will always be labour intensive.

5:4.13 Options provided to the then Minister (and any associated implications for administration costs) were as follows:

- refocusing the Programme so that only those communities defined as 'disadvantaged' would be eligible to apply – however, this was expected to lead to greater risk of project failure and continuing high administration costs due to the reduced capacity of such groups to develop and manage projects (unless funding management was outsourced to another body such as the local Council);
- refocusing the Programme as a competitive programme with funding rounds; clearer, more limited criteria and funding recommendations made to the Minister by an advisory committee – with a more active role for ACCs in assessing projects (based on an initial departmental assessment) allowing DOTARS to reduce levels of Regional Office staff (to a contract management role) and re-centralise the project assessment function. However, DOTARS was concerned that this would reduce DOTARS' own regional employment levels, which would take a long time to replace through the approval of employment generating projects. DOTARS was also concerned that rounds would need to be frequent (at least monthly) to avoid the number of projects becoming too large to manage or delays unreasonable; and

- using the existing framework, but giving clearer direction to ACCs in terms of national strategic direction. No effects on administrative efficiency were identified for this option.

5:4.14 As discussed, later in November 2005, the then Minister announced some changes to the delivery arrangements for Regional Partnerships funding. The announced changes involved the formation of the Ministerial Committee; the introduction of the single assessment of applications conducted by DOTARS' National Office in Canberra; and changes to strengthen and develop the role of the ACCs.

5:4.15 Separately, the report of the Programme review originally requested by the Government in March 2004 was completed in February 2006 and presented as part of the departmental submission to the 2006–07 Budget. In terms of the administrative efficiency of DOTARS' delivery of the Programme, the review concluded that:

> Whilst it has not been possible to directly compare the Regional Partnerships Programme with programmes in other portfolios, due to lack of detailed data, by using data available in Portfolio Budget Statements it appears that the level of administrative cost is comparable with other similar programmes and reflects the nature of the Programme: particularly the large number of diverse projects which are administered by small groups in often remote locations.
>
> …A number of other measures to further improve Programme efficiency have been outlined in the review, including imposing a time limit for successful applicants to accept an offer of funding, having ACCs play a greater role in monitoring project progress by participating on project steering committees and advising DOTARS of potential project delays so that Regional Offices can follow up with recipient.
>
> In addition, discussions are taking place with the Department of Finance and Administration about the provisions of the *Financial Management and Accountability Act 1997* (FMA Act), particularly Regulation 10, govern *[sic]* the committing of funding within and across financial years. Given the difficulties experienced in project implementation resulting in a delay in payments it may be possible to commit a greater amount of funds in a financial year (i.e. an additional 20 per cent) and manage the Programme outlays, to some extent, across financial years thereby improving overall Programme expenditure.
>
> Several changes to improve the management of the Programme have been made since it was launched in July 2003. DOTARS continues to evaluate the Programme and to introduce efficiencies in administration, along with support for potential applicants and successful proponents. The changes recently announced by the Australian Government are being implemented and will

> ensure further improvements. Additional changes are proposed in this review and will be considered by the Ministerial Committee and an ANAO review is in progress.

Reporting framework

5:4.16 As was discussed in Chapter 4 of Part 3 of the audit report, Regional Partnerships Funding Agreements are based on Standardised Funding Agreements developed by AGS as part of the More Accessible Government Initiative. Following the finalisation of the Standardised Funding Agreement, AGS developed and distributed *Implementation Guidelines for Programme Managers* to assist those agencies using Funding Agreements based on the Long Form Standardised Funding Agreement. These *Implementation Guidelines* were designed to provide supporting information in relation to the implementation of each clause of the Funding Agreement. In relation to clause 9 of the Long Form Standardised Funding Agreement ('Reporting'), the Implementation Guidelines stated that:

> Reporting is the simplest way for the Commonwealth to monitor the Activity and the Funding. Payment of Funding is usually made subject to receipt and acceptance of reports. This obligation on the Recipient provides information to the Commonwealth so that the Commonwealth can account for how the Funding has been spent.

5:4.17 In this context, each version of the Regional Partnerships Internal Procedures Manual issued during the first four years of the Programme stated the following in relation to the importance of DOTARS closely monitoring projects funded under the Program:

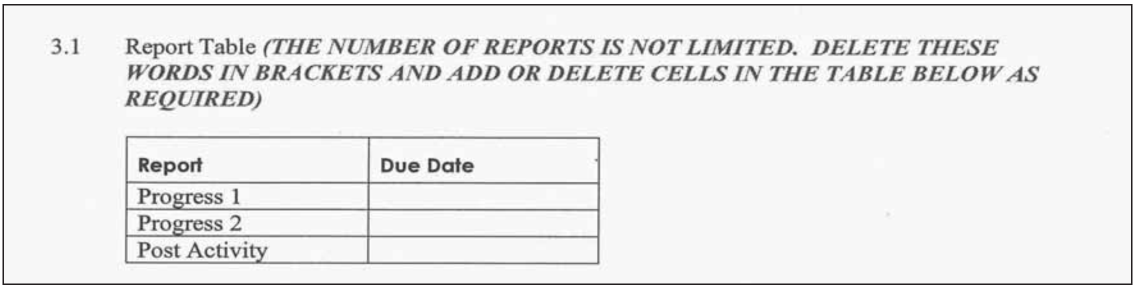
> Regional Office staff must remain across the circumstances of each Project and be satisfied that progress is being made and that the Project has not stalled. If there are concerns about lack of reports and progress, these need to be discussed on a case by case basis with the Regional Manager and a national program manager to determine appropriate action. A site visit would be warranted in these circumstances and discussions undertaken with the applicant and the ACC where the ACC is represented on the Steering Committee.

5:4.18 The schedule to the Long Form Standardised Funding Agreement used for most Regional Partnerships projects over that period provided a framework to enable DOTARS to specify a reporting regime to facilitate monitoring of progress throughout the life of the project. Specifically, this was to be achieved by the funding recipient submitting Progress Report(s) and a

Post Activity Report to DOTARS as specified in the schedule (see Figure 5:4.1).[640]

Figure 5:4.1

Funding Agreement specification of project reporting



3.1 Report Table *(THE NUMBER OF REPORTS IS NOT LIMITED. DELETE THESE WORDS IN BRACKETS AND ADD OR DELETE CELLS IN THE TABLE BELOW AS REQUIRED)*

Report	**Due Date**
Progress 1	
Progress 2	
Post Activity	

Source: Regional Partnerships Long Form Standardised Funding Agreement, downloaded from DOTARS' Regional Partnerships website 18 July 2007.

Revised reporting requirements

5:4.19 In December 2006 and May 2007, DOTARS advised ANAO that it had more clearly defined and reinforced the project reporting requirements for future projects. In this respect, a revised Internal Procedures Manual chapter relating to Funding Agreement development and execution provided by DOTARS to ANAO in May 2007 outlined that three reports will be required for Regional Partnerships projects, as follows:

- 'progress reports' are to be used for the funding recipient to advise on the progress of the project and activity Regional Partnerships is funding, to acquit payments of Regional Partnerships funds made to the date of the report and to trigger further payments;
- a 'project completion report' (which superseded the Post-Activity Report) is to be used to finalise the activity Regional Partnerships is funding and the overall project, a final acquittal and audit of Regional Partnerships payments and partner co-funding, and trigger the final instalment of Regional Partnerships funds; and
- an 'outcomes report' to be sought six, 12 or 18 months after the project has been completed (depending on the nature of the outcomes and the

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[640] The administration of the Post Activity Report framework is examined in the next chapter on Project Outcomes.

projected timeframe for the outcomes to be realised and effectively measured).

Progress reporting by funding recipients

5:4.20 For the Regional Partnerships Programme, progress reports from funding recipients are the key element of the ongoing project monitoring regime. In terms of the frequency of project monitoring arrangements, the ANAO Administration of Grants Better Practice Guide advocates that:

> Regular review of grants reduces risk and the level of frequency can be determined by the:
>
> - size of the grant;
> - nature of the risks and their assessed priority;
> - sensitivity of the grant;
> - degree of uncertainty or subjective judgement in the original appraisal;
> - type of grant (for example, is it repayable?); and
> - type of project (for example, is it innovative or open to unintended changes of use or ownership?).[641]

5:4.21 The original (July 2003) version of DOTARS' Internal Procedures Manual stated that:

> Successful applicants will receive funding for the agreed period of the project, subject to satisfactory compliance with the terms of the funding agreement. This will include achieving any agreed milestones detailed in the application form, and providing reports as specified in the funding agreement.[642]

5:4.22 This guidance was also included in the June 2004, September 2004, February 2005 and September 2005 versions of the Internal Procedures Manual. However, these versions did not include any guidance for Regional Offices on the factors to consider in deciding how many progress reports should be required by the Funding Agreement executed for each approved project, or the frequency of reporting.

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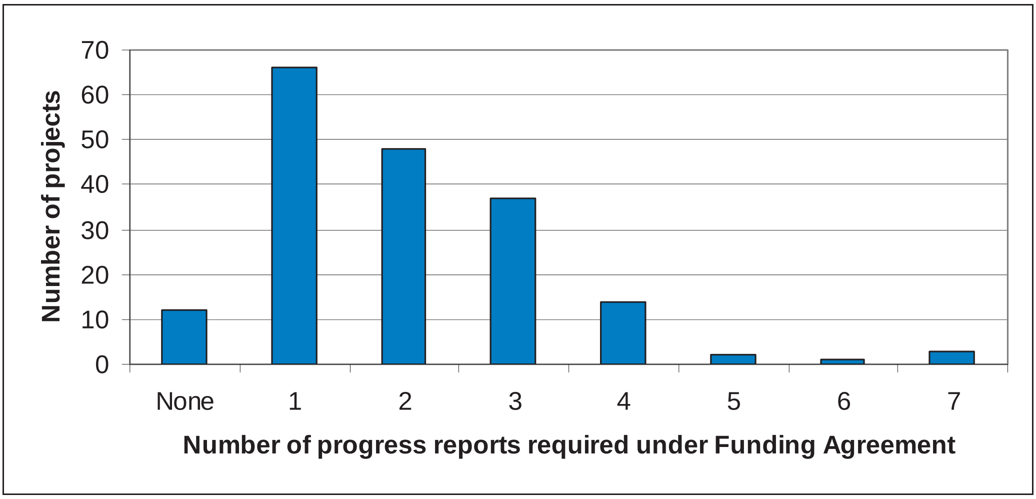
[641] ANAO Better Practice Guide-Administration of Grants, op, cit., p. 59.

[642] DOTARS, *Regional Office and National Office Internal Procedures Manual*, July 2003, p. 87.

5:4.23 In this respect, there were 183 projects in the audit sample that had been approved for funding and had a Funding Agreement in place at the time of audit fieldwork. Figure 5:4.2 illustrates that, in the absence of any documented guidance in the Internal Procedures Manual concerning factors to be considered in deciding the number of progress reports and their frequency, the practice that developed was that three reports or fewer would be required for most projects. Specifically, 89 per cent of the Funding Agreements examined by ANAO required three reports or less over the life of the project. Further in this respect, the Funding Agreements for 97 per cent of the projects required four reports or less.

Figure 5:4.2

Progress reports required for approved projects in the audit sample



Source: ANAO analysis of projects in the audit sample with a Funding Agreement in place at time of audit fieldwork (including three election commitment projects).

5:4.24 A number of the ANAO project case studies illustrated the absence of a risk-based approach to specifying progress report requirements. In particular, the specification of such requirements was not undertaken having regard to project risks, or the timeframe over which the project was being conducted.

Revised internal procedures

5:4.25 Section 6 ('Funding Agreement Development and Execution') of the revised Internal Procedures Manual provided by DOTARS to ANAO in May 2007 reflects an improved approach to the frequency at which progress reports will be required from funding recipients. Specifically, it states that:

> The complexity of the project and the level of risk involved will determine the number of reports required and the schedule for submission of reports. For example: a small project where Regional Partnerships is contributing under $50 000 may not require more than three reports, a Progress Report that triggers the first payment, a Project Completion Report that triggers the final payment and an Outcomes Report at 6, 12 or 18 months after the completion of the project.

5:4.26 The revised Internal Procedures Manual further requires that Regional Office staff schedule the due dates of progress reports against defined milestones. The Manual notes that not every milestone will require a report, however a Regional Partnerships payment is not to be made unless triggered by a progress report.

Obtaining progress reports

5:4.27 In respect to project monitoring, the original (July 2003) version of the Internal Procedures Manual stated that:

> Contracts are to be administered in Regional Offices. Progress payments will be subject to the satisfactory demonstration of project progress and the acquittal of previous funds as outlined in the proponent's reports. Monitoring processes (eventually assisted by TRAX) will be developed to assist in the identification of overdue reports, missed milestones and expenditure slippage.[643]

5:4.28 In addition, each version of the Internal Procedures Manual that applied during the first four years of the Programme stated that the reports specified in the Funding Agreement were to be obtained by DOTARS through three stages:

- request by DOTARS for progress and post activity reports due and notification of receipt of the same to the funding recipient;
- registering of reports by DOTARS, including checking all required documentation has been provided; and
- assessment of reports, including supporting financial documentation, against activity milestones, project outcomes and project budget.

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[643] DOTARS, *Regional Office and National Office Internal Procedures Manual*, July 2003, p. 105.

5:4.29 In terms of the final stage, the importance of a detailed assessment of the report was emphasised in the September 2004, February 2005 and September 2005 versions of the Internal Procedures Manual, as follows:[644]

> An assessment of the Progress Reports and financials against activity milestones, project outcomes and budget must be undertaken. The performance of the funding recipient in delivering their obligations under the Funding Agreement must be evaluated and noted in TRAX…
>
> The Regional Office is to provide a recommendation to the Regional Manager noting whether the reports and the performance of funding recipients are acceptable or otherwise, in accordance with the contract. Recommendations are to note whether the funding recipient has met its obligations and therefore are eligible to receive any final payments.

5:4.30 Of the 183 projects in the audit sample that had a Funding Agreement in place, 171 (93 per cent) required the funding recipient to submit at least one progress report during delivery of the project. On average, the funding recipients for these 171 projects were required to submit two progress reports. In aggregate, 393 progress reports were required under the respective Funding Agreements in respect to these 171 projects, with the due date having passed for 334 of those reports at the time of ANAO audit fieldwork. As illustrated by Figure 5:4.3, the department's performance in obtaining progress reports in a timely manner has been poor, with a high proportion (85 per cent) of these 334 reports either not having been provided to DOTARS, or having been provided after the due date specified in the Funding Agreement (often significantly after the due date).

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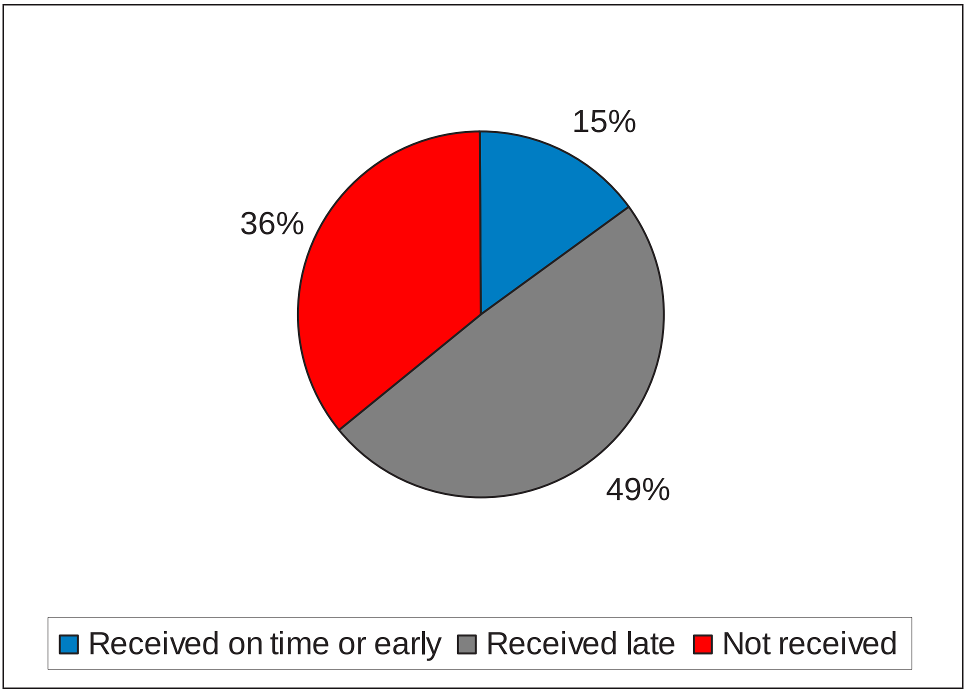
[644] Earlier versions of the Internal Procedures Manual contained an abbreviated version of this text.

Figure 5:4.3

Obtaining progress reports: projects in the audit sample



Source: ANAO analysis of DOTARS records for a sample of 183 projects.

5:4.31 This level of performance indicates that procedures relating to monitoring project performance through progress reports that were to have been developed at the commencement of the Programme (to be assisted by the TRAX Information Technology (IT) system (see paragraph 5:4.27)), have not been effective. In this respect, in December 2006 DOTARS advised ANAO that the department was:

> Building into our IT system a management tool (under development) that will support the ongoing case management of active Funding Agreements with:
>
> - scheduling of contact points throughout project delivery to ensure timelines and milestones are on target
> - early automatic advice of reports and payments pending
> - pro-active intervention in projects that appear to be 'slipping'.

5:4.32 In October 2007, DOTARS advised ANAO on progress in implementing this improvement initiative, as follows:

> As an interim development, the Department, in late May 2007, commenced use of the project monitoring report 'Regional Programmes – Rolling Three Month

Payment Plan'. The information is based on Funding Agreement scheduled payments sourced from the TRAX-SAP system.

The Plan:

- covers a three month period and is updated and issued to Regional Managers at the beginning of each month;
- provides information relating to projects that have payments due in the coming three month period, with a particular focus on the current month
  - as each payment is linked to a milestone and the provision of a project report, the Plan also effects identification of projects that have progress or final reports due; and
- enables an analysis of payments not made on time, which directly correlates to reports not received on time.

Where project managers identify that a report will not be provided by the due date, there is a requirement for them to identify and note the reasons, estimate the impact this will have on the schedule, and indicate what actions are being taken to remediate the situation as follow-up contact with the applicant and possible contract variation action. This data is summarised into executive level reports to allow the Department to monitor the effectiveness of the process and address systematic issues that may emerge.

5:4.33 DOTARS further advised that:

The revised application form and new Regional eGrant IT system, for use by applicants and ACCs, was released throughout September (*2007*) with all ACCs expected to be online by the end of September once training had been completed. This IT system will be progressively expanded to include Assessment and Funding Agreement/claims modules. It will replace the existing TRAX system over the coming year resulting in a greater reporting capability.

Project timeframes

5:4.34 The Regional Partnerships application form asks applicants to:

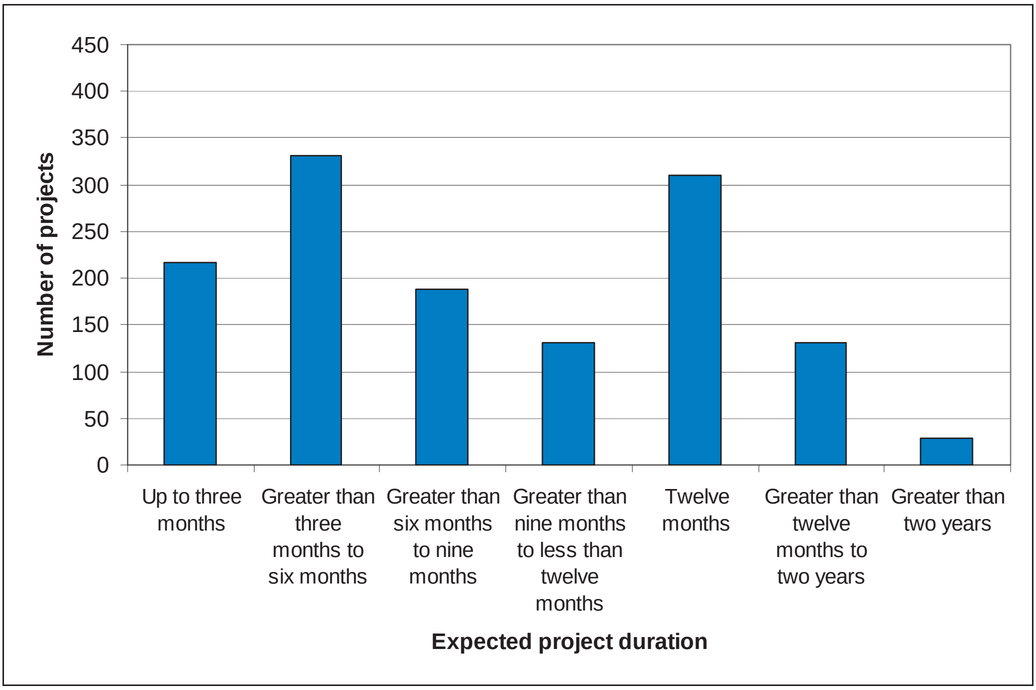
- nominate the anticipated project start and end dates;
- include information about timeframes when listing the anticipated outcomes of the project; and
- outline the time expected to be taken to complete each project milestone.

5:4.35 In this context, obtaining and analysing information on project timeframes is important for a number of reasons, including in order to properly advise Ministers on the expected completion date and, therefore, when it might be expected that the anticipated project outcomes may begin to be realised.

5:4.36 Of the funding decisions taken between 1 July 2003 and 30 June 2006 where a departmental recommendation was made to the Ministerial decision-maker, there were 1 336 projects where the project assessment included an estimated project duration. As illustrated by Figure 5:4.4, for over 88 per cent of these projects, DOTARS had advised the Ministerial decision-maker that the project was expected to be completed in twelve months or less.[645]

Figure 5:4.4

Estimated project durations advised to Ministers: July 2003 to June 2006



Source: ANAO analysis of DOTARS project assessments provided to Ministerial decision-makers.

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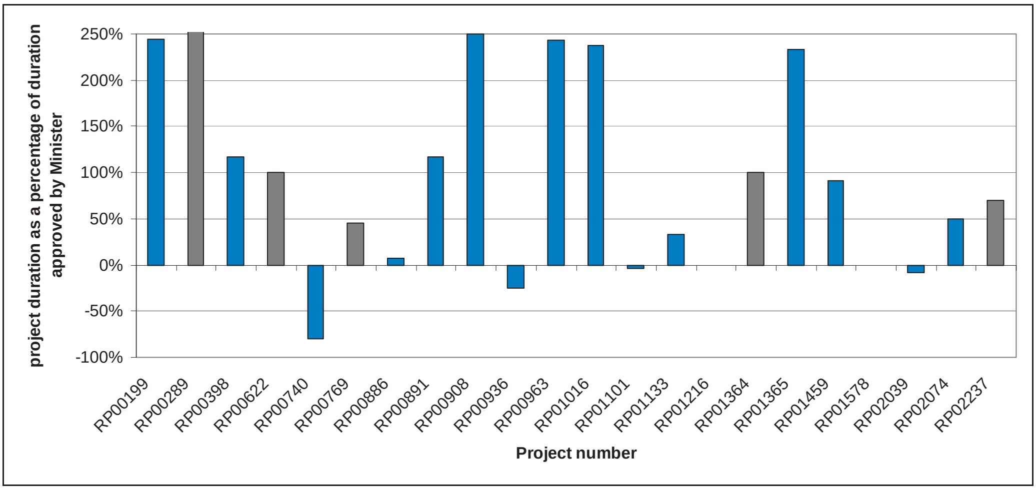
[645] It is Government policy that the written approval of the Finance Minister must be obtained prior to the awarding and announcing of a multi-year grant. For the period examined by ANAO, a multi-year grant was defined as a grant that created a funding commitment for more than twelve months. In September 2006, the Prime Minister agreed that grants of $2 million or less with a duration of 36 months or less would no longer require the prior approval of the Finance Minister.

5:4.37 It has been commonplace for Regional Partnerships projects to take longer to be completed than the timeframe advised by DOTARS in the project assessments provided to Ministers. For example, the average project duration advised to Ministers for the 22 projects that were subject to an ANAO case study was ten months. Based on the actual or most recent expected completion date for these projects, the average actual project duration will be more than 20 months. As illustrated by Figure 5:4.5, few of these projects were completed within, or close to, the project duration advised to the Ministerial decision-maker.[646]

Figure 5:4.5

Timeliness of completion of projects: case studied projects



Note: Grey shading indicates the project had yet to be completed whereas blue shading indicates the project had been completed to DOTARS' satisfaction.

Source: DOTARS' records in relation to 22 projects subject to ANAO case studies.

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[646] The case studied project with the largest delay was RP00289 Australia's National Mineral Water and Bathhouse Facility. It was approved for $500 000 (plus GST) in Regional Partnerships funding on 1 April 2004. The project assessment recommending funding approval advised the then Parliamentary Secretary that the project duration was seven months. The Funding Agreement was signed on 26 May 2004. The contracted milestones provided that construction and fit-out would be completed and the facility operational by 28 April 2006. This represented a project duration of 25 months from the date the then Parliamentary Secretary approved Regional Partnerships funding for a seven month project. A Deed to vary the Regional Partnerships Funding Agreement was signed on 18 October 2006. Among other things, the Deed amended the milestone completion dates such that the refurbished building is to be commissioned and ready for occupation by 28 February 2008. Should this timeframe be met, the seven month project approved in April 2004 by the then Parliamentary Secretary will have been completed 47 months after the approval was given, noting that 90 per cent of Regional Partnerships funding was paid at the time the Funding Agreement was signed.

5:4.38 In October 2007, DOTARS advised ANAO that:

> The Department notes that many project delays cannot be attributed to Departmental process. They are a consequence of project progress matters arising from unforseen and non-controllable issues such as delays in receiving development approvals, labour market shortages and building hold-ups resulting from material supply failure or inclement weather.
>
> The Department's assessments to Ministers are indicative timeframes only and are in accordance with the information provided by applicants.

Extension of project progress reporting timeframes

5:4.39 A further indicator of the extent of project delays is the frequency with which extensions have been granted to the due date for project progress reports to be provided by funding recipients. In total, there were 65 projects (36 per cent) in the audit sample of 183 projects with a Funding Agreement in place where one or more variations had been agreed between DOTARS and the funding recipient. For 61 of these 65 projects (94 per cent), the variation related to a change to the due date for one or more progress reports to be provided to the department.[647] As illustrated by Figure 5:4.6, for some projects the due date for one or more progress reports has been extended on a number of occasions.

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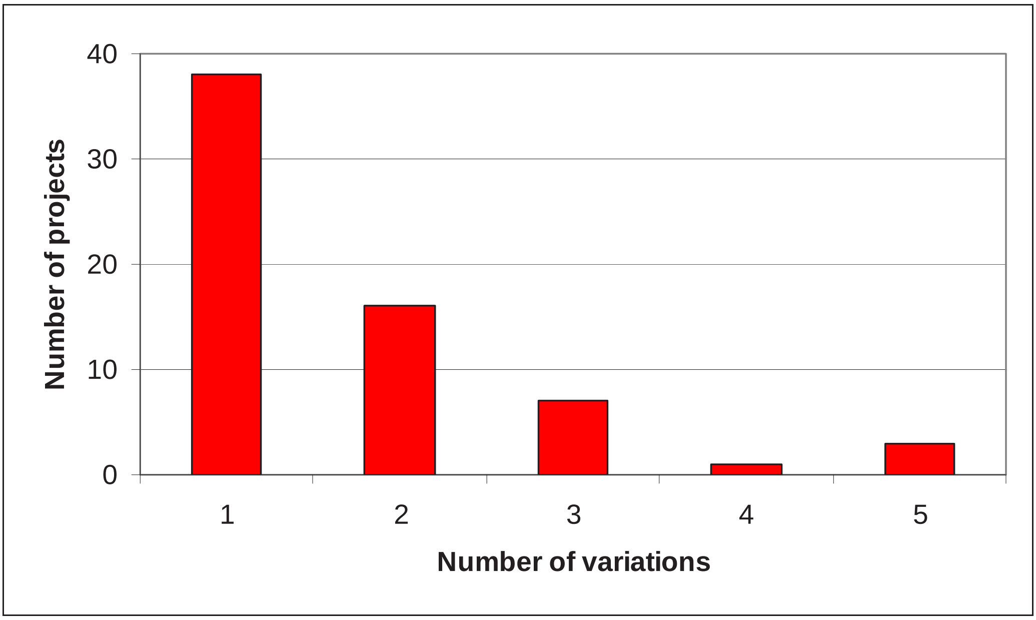
[647] Other delays involved minor scope variations such as changes to Budget items.

Figure 5:4.6

Number of variations to progress report due dates: audit sample projects

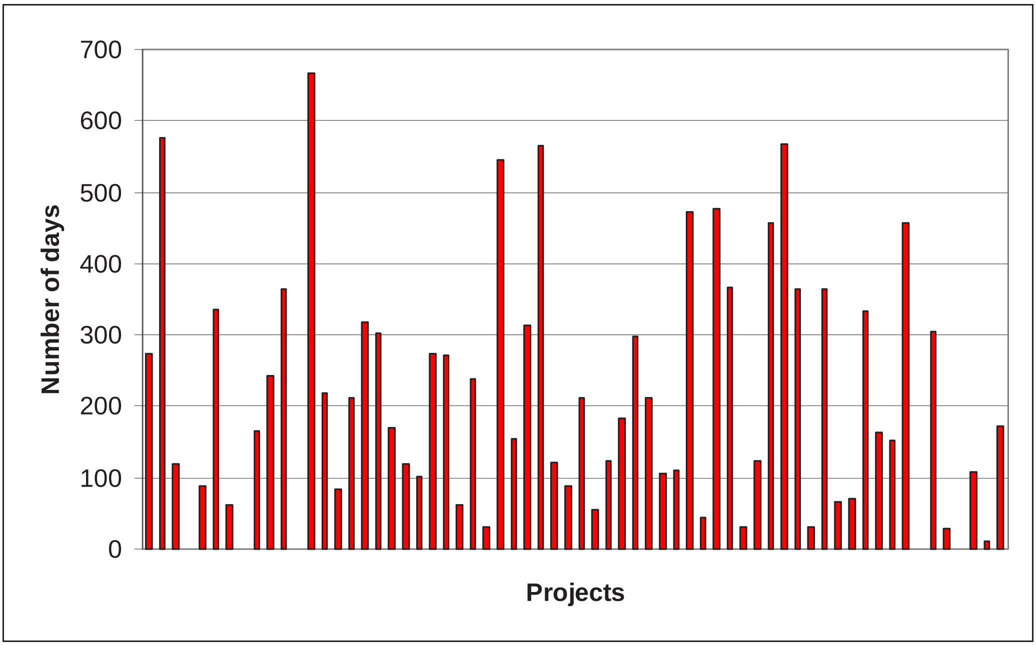


Source: ANAO analysis of DOTARS records.

5:4.40 In addition to a significant number of projects being delayed, the delays themselves were often substantial. There was only one project where the variation to the progress reporting due dates expedited the reporting due to the project proceeding more quickly than had been scheduled (by 31 days). In relation to the remaining 60 projects, the average total delay in progress reporting was 222 days, or more than seven months. Figure 5:4.7 illustrates the length of the reporting delays for each of the projects, and highlights that project delays are a longstanding and continuing issue for the Programme.

Figure 5:4.7

Length of extensions to progress report due dates: audit sample projects



Source: ANAO analysis of DOTARS records.

5:4.41 A further issue in this area is the approach that is routinely taken to agreeing and documenting Funding Agreement variations. In relation to Funding Agreement variations, AGS has advised agencies that:

> Where a variation is made by the agreement of the parties, it must be put in writing and signed by the parties' authorised representatives. An exchange of emails does not meet this requirement.[648]

5:4.42 Of the 110 variations agreed between DOTARS and the funding recipient for the 65 projects mentioned at paragraph 5:4.39, 50 (45 per cent) were made in writing between DOTARS and the funding recipient and signed by representatives of each party. The remaining 60 variations (55 per cent) were not in writing and signed by representatives of both DOTARS and the funding recipient. Often, the variations were documented through an exchange of emails.

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[648] Australian Government Solicitor, Commercial Notes Number 19, 29 May 2006, p.11.

5:4.43 In October 2007, DOTARS advised ANAO that the department had updated its processes to address this issue, with the updated Internal Procedures Manual now stating:

> Where a Funding Agreement has been executed, variations to this agreement are not binding unless agreed in writing and signed by both parties. A Deed of Variation…is used to vary an executed Funding Agreement.

5:4.44 DOTARS further advised that:

> This message was re-iterated to all *Regional Partnerships* staff during Funding Agreement management training conducted in June-July 2007.

Delays in achievement of project outcomes

5:4.45 Delays in the conduct and completion of a project mean that anticipated project outcomes are not being achieved in a timeframe that is commensurate with that which informed the Ministerial decision that awarding Regional Partnerships funds for the project represented value for money. In this context, the Long Form Standardised Funding Agreement used for most Regional Partnerships projects in the audit sample required that progress reports and Post Activity Reports include information on performance against the specified project outcomes and milestones, together with:

> details of mitigating circumstances and remedial action undertaken in the event an Activity Milestone is not met or completed in the manner and/or by the time specified.

5:4.46 It is inevitable in a programme of this kind that there will be delays experienced in some projects. The appropriate departmental response will depend on the circumstances. However, in situations where DOTARS is inclined to agree to a significant extension to the due dates for project milestones and/or the overall project completion date it would be reasonable for the department to:

- require that a progress report be submitted containing the information (including financial acquittal) specified in the Funding Agreement; and
- use the information provided in the progress report to assist in informing its decision about whether to agree to an extension and, if so, the duration.

5:4.47 Where the department agrees to the extension, it would also be appropriate to more closely monitor the project by requiring additional, and possibly more frequent, progress reports from the funding recipient.

5:4.48 However, in circumstances where a project has experienced delays, in the three year period examined by ANAO it had been commonplace for DOTARS to defer and re-schedule progress reports until such time as the progress was achieved. For example, RP01364 Country Homes and Cabins (which is the subject of an ANAO case study) was approved in June 2005 for $375 000 (plus GST) in Regional Partnerships funding with an anticipated outcome of strengthening growth and opportunities in Central Queensland by creating employment and addressing a housing shortage. The project duration nominated in DOTARS' assessment of this project was 16 months. The Funding Agreement (signed in October 2005) required the transportable house construction factory and house transporter being funded through the project to be operational by 15 June 2006.

5:4.49 The Funding Agreement specified that the funding recipient was to submit three progress reports:

- the first progress report was due on 15 November 2005, with 30 November 2005 being the proposed payment date for the first Regional Partnerships instalment of $250 000 plus GST (67 per cent of approved funding).[649] The progress report was provided to the Regional Office on 16 November 2005. Notwithstanding that the applicant had specifically advised that the first milestone had not yet been met, and the progress report failed to include the required statement of activity expenditure, the first Regional Partnerships payment was processed by DOTARS on 16 November 2005; and
- the second progress report was due on 15 March 2006, but was not provided. Instead, on 20 April 2006, a consultant working for the funding recipient advised DOTARS that the project was progressing, but at a slow pace. Rather than obtaining the due progress report (which was required to include information on the causes of the delay and action being taken, together with an acquittal of the first payment), DOTARS advised the applicant and its consultant that a formal contract variation would be prepared to move the due date for the second

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[649] The purpose of this payment was to assist with the costs of the first milestone, being plans for the factory were to be finalised and approved with construction materials ordered.

progress report and payment to 30 June 2006 and the due date for the final report, audit and payment to 30 September 2006. However, a Funding Agreement variation was not signed until February 2007, with:

- the second milestone and associate progress report now not due until 30 August 2007;
- the third milestone and associated third and final progress report due by 4 January 2008; and
- the Post Activity Report, including of project outcomes, due by 15 December 2008.

5:4.50 A progress report was received by DOTARS on 19 September 2007 (some information was provided on 30 August 2007). Accordingly, more than 22 months elapsed before DOTARS obtained a progress report in the manner required by the Funding Agreement, including an acquittal of the first Regional Partnerships instalment of $250 000 (plus GST)[650] and formal advice on the delays, mitigating causes and action taken to address the situation.

5:4.51 In October 2007, DOTARS advised ANAO that:

> The revised Procedures Manual (Section 7.3.4) outlines requirements for assessing variations, which requires that the funding recipient complete a formal variation request template. The template requires the applicant to provide information which includes the circumstances that led to the variation request, the impact of the variation to the project, what would happen if the variation is not approved and whether the variation will impact on future milestones and deliverables.

5:4.52 These improved procedures should prove beneficial in terms of DOTARS' oversight of funded projects. However, this would be further improved by requiring funding recipients that are requesting an extension to project timeframes (including the deferral of progress reporting) to also provide the financial acquittal information that will enable the department to obtain appropriate assurance in relation to the use that has been made to date of any Regional Partnerships funding already paid (rather than deferring the requirement to provide such information). Issues in this respect will be further

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[650] The inattention to this issue was not prudent having regard to the applicant and project viability risks raised by DOTARS in its project assessment, which did not recommend funding, and in the external viability assessment undertaken after the project had been submitted to the then Parliamentary Secretary.

addressed as a result of the department advising ANAO that it has ceased the practice of paying a substantial proportion of approved Regional Partnerships funds upon execution of the Funding Agreement.[651]

Performance information on project delays

5:4.53 Shortcomings in the administration of this aspect of Regional Partnerships Funding Agreements have had an adverse impact on the extent, quality and comprehensiveness of information held by DOTARS concerning the extent and causes of project delays. For example, the report of the Programme review completed in February 2006 and presented as part of the departmental submission to the 2006–07 Budget was unable to provide well informed advice on causes of project delays, drawing from data obtained under the Funding Agreement reporting framework. Instead, Government was advised that:

> A recent survey of Regional Office staff identified the following as common reasons for scheduled payments to applicants being postponed:
>
> - delays in projects involving construction (shortage of tradespersons, complexity of government approvals, weather conditions);
> - seasonal influences (agricultural seasons, pre-existing work cycles in the case of local government, educational calendar, and holiday/tourism seasons); and
> - lack of project management skills on the part of proponents, or changes in personnel of recipient organisations.

5:4.54 This advice from Regional Offices had been obtained in December 2005 as part of an internal review of payments slippage in the Programme.[652] The internal review concluded that:

> The lack of specific findings in the analysis of the potential reasons for slippage in payments – possibly due to lack of suitable data – is frustrating. However, it does give rise to a number of issues that may benefit from more detailed consideration:

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[651] As discussed at paragraph 5:2.35, 83 per cent of the 180 Funding Agreements in ANAO's sample provided for at least half of total Regional Partnerships funding to be paid in the first instalment.

[652] The report of the internal review noted that appropriation levels had been increased during Budget revisions but that actual expenditures had not matched the original Budget figures, except in 2004–05 when special payments were made.

- A major problem faced during the analysis of slippage in payments was the very noticeable lack of completeness of data entered into TRAX. For whatever reason, some regional offices do not appear to have consistently or reliably entered project data into TRAX. Unless this issue is addressed comprehensively in the near future, the usefulness of future analyses or evaluations of the Regional Partnerships program will be jeopardised, with potentially serious consequences for program managers. With the strong support of senior management, a coordinated effort by program managers, the TRAX team and Regional Office Managers could help ensure that data entry were made easier, existing data deficiencies remedies, and shadow systems discontinued.
- Further, more detailed analysis could be carried out into the reasons for slippage in payments. In the absence of reliable and detailed data further analysis may not be a cost-effective option at this stage. However, there may be scope for exploring alternative concepts of slippage.
- Regional offices have practical experience and knowledge slippage of projects of different types. If this knowledge could be captured in a table showing typical timeframes for successful projects of different types, guidance would be available to all offices when drafting payments schedules for Funding Agreements. More realistic payments schedules would assist greatly in forecasting future expenditure patterns at a program level.

5:4.55 The November 2006 report of DOTARS' mid-term (Stage Two) evaluation of the Regional Partnerships Programme did not include any analysis of delays in the conduct of approved projects, or associated slippage in payment of Regional Partnerships funds.

Site inspections

5:4.56 The monitoring methodology for Regional Partnerships projects finalised in September 2003 included procedures for site visits. These were described as follows:

> An essential part of the agreed monitoring methodology is a modest, measured, systematic programme of site visits by Regional Office staff. These visits have two main functions: to assist the recipients to administer the project and meet the Commonwealth's reporting requirements; and also to undertake probity checks on whether the recipients are meeting the various conditions of the Funding Agreement and the written progress reports are adequate representations of reality.

5:4.57 However, concerns were raised within the department that Regional Office budgets limited project visits to those that could be conducted as an adjunct to Regional Office attendance at scheduled ACC meetings. In October 2003, in order to avoid the Programme being left with an 'indefensible risk management strategy', options were costed for implementing the agreed departmental site visit methodology. The culmination of this process was a November 2003 recommendation that additional funding of $115 893 be allocated in 2003–04 to allow departmental site visits to one new Regional Partnerships project per ACC region plus 10 per cent of the 'legacy' projects from predecessor programmes being managed by each Regional Office.[653]

5:4.58 In response to an ANAO request for advice as to the outcome of this recommendation in relation to funding for departmental site visits, in October 2007 DOTARS provided ANAO with the following advice:

> Current operational arrangements for (ACCs) are identified in the contract between the Department and ACCs. The contract states:
>
> - *ACCs support, promote and disseminate information on Australian Government policy initiatives for the benefit of their communities. ACCs also provide feedback to the Government to enable effective review and informed refinement of policies and programmes.*
> - *A core function of ACCs is to be the primary point of promotion, project and application development for Regional Partnerships (RP), and the key provider of independent advice to the Commonwealth on applications under Regional Partnerships from their region.*
>
> These measures require ACCs to gain a clear understanding of proposals to enable provision of quality feedback and advice and may require their undertaking site visits.
>
> The Department notes that the funding we have provided to ACCs (see table below) has grown in response to the increased demands placed on ACCs to assist the development of Regional Partnerships proposals and to provide the Government with independent advice.

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[653] The additional visit rate to legacy projects was intended to recognise that these projects generally included a higher proportion of 'problem' projects.

DOTARS Area Consultative Committee Network Funding

Financial Year	Expenditure ($)
2003–04	14,223,794.50
2004–05	16,338,141.39
2005–06	19,646,722.47

Additionally, in June 2006, Minister Vaile provided additional one-off support to ACCs for use in the three key areas of:

- training and capacity building;
- marketing and office equipment; and
- additional travel costs.

Visits during project assessment

5:4.59 In the report of its inquiry into a funding matter under the Dairy Regional Assistance Programme, the Senate Finance and Public Administration References Committee pointed to the value of departmental officials undertaking site visits during the assessment of applications for funding.[654] On this comparison, in June 2007, DOTARS advised ANAO that:

> In the scenario to which this refers, which does not relate to a Regional Partnerships project, an independent report was available that indicated site works had commenced.

5:4.60 In respect to the Regional Partnerships Programme, DOTARS' Internal Procedures Manual does not provide for site inspections to be undertaken as part of project assessments. ANAO's analysis of projects in the audit sample confirmed that there is not a practice of undertaking site inspections so as to inform the assessment of applications for funding, notwithstanding the size or nature of the project for which funding is being sought.

5:4.61 ANAO concurs with the Senate Committee that site inspections as part of project assessments can add value to project assessments in particular circumstances. For example, ANAO's case study of RP01133 Carnarvon Recreational Marina demonstrated that DOTARS' assessment of this project was deficient in that it did not address ambiguities in the Regional Partnerships application concerning the scope of the project. Specifically, funding was recommended and approved by the then Parliamentary Secretary

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[654] Senate Finance and Public Administration References Committee, *A Funding Matter Under the Dairy Regional Assistance Program*, June 2003, p. 48.

on the basis of a project that involved construction of additional moorings for 22 keel vessels and a two lane boat ramp. However, the actual project involved additional moorings for 12 keel vessels and no boat ramp. Had a site inspection been conducted as part of the assessment of the application for funding, it would have been apparent to the department that the boat ramp was being constructed by the local Council on an adjacent but separate site. There is no inter-relationship between the two projects.

5:4.62 In October 2007, DOTARS advised ANAO that:

> The inclusion of site visits into application assessments would extend the timeframe between application lodgements and providing advice on the outcomes, and prove costly…the Department seeks increased understanding regarding a project's nature through more vigorous questioning in the Programme's application form and by requiring assessors to fully consider information provided by Area Consultative Committee's (ACCs) and Regional Office staff, and where necessary, to seek out further information.

Visits as part of Funding Agreement management

5:4.63 The ANAO Administration of Grants Better Practice Guide states that:

> Other than for low value grants, visit the project and/or hold a progress meeting with the grant recipient before settlement of the final claim, to ensure that the grant has been spent as intended.[655]

5:4.64 The various versions of DOTARS' Internal Procedures Manual have included criteria for the conduct of site inspections as part of DOTARS' management of Regional Partnerships grants. The version in place at the time of ANAO audit fieldwork (issued in September 2005) stated as follows in relation to site visits:

> The purpose of a site visit is to obtain some level of confidence that Australian Government funding is being spent appropriately and the project is proceeding satisfactorily.
>
> A risk management approach to site visits is recommended. Site visits should be undertaken by Regional Office staff depending on their respective work schedules (i.e. they may coincide with an ACC meeting). Where there is a Steering Committee with ACC representation, site visits may not be necessary. ACCs may be able to assist in remote regions.

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[655] ANAO Better Practice Guide-Administration of Grants, op. cit., p. 58.

> …A Project Monitoring matrix has been developed by National Office to assist Regional Offices to determine the appropriate number and timing of site visits according to the nature and size of a Project.

5:4.65 As illustrated by Table 5:4.2, the September 2005 version of the Internal Procedures Manual included a table of project risk thresholds intended to guide the conduct of site visits and other project monitoring activities. Specifically, as indicated by Table 5:4.2, except for projects with a Regional Partnerships funded value of less than $50 000 payable to Local Government Authorities or non-profit organisations, there was to be at least one site visit to all funded projects during their life. A similar table had been included in the February 2005, September 2004 and June 2004 versions of the Internal Procedures Manual. The original (July 2003) version of the Internal Procedures Manual did not include this table, but also advised that each project should have at least one site visit, viz:

> A risk management approach to site visits is recommended. As a general guide, a site visit would be undertaken every 6 months depending on the nature of the project. Most projects will require at least one site visit. The purpose of a site visit is to obtain some level of confidence that Commonwealth funding is being spent appropriately and the project is proceeding satisfactorily.[656]

5:4.66 Notwithstanding that there has been a consistent, risk-based requirement since the Programme commenced for site visits to be undertaken as part of project monitoring, the site visit requirements have not been implemented. In particular, there were few projects in the ANAO sample where any site visit had been undertaken by DOTARS. This very low level of visits, and the associated risks, have been illustrated in a number of ANAO case studies, including those of:

- RP01578 Aerox Odour Control Filters for Grape Marc Separator/Dryer wherein $393 636 (plus GST) was provided to a private sector applicant. The acquittal was finalised and the final payment made in October 2005 despite the department not having undertaken a site inspection. As a result, DOTARS did not assure itself that the plant was, in fact, operating with the filters installed and working. It is now clear that the plant did not commence operations. The company went into

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[656] DOTARS, *Regional Office and National Office Internal Procedures Manual*, July 2003, p. 86.

liquidation and the public money paid to the applicant was reflected in assets that were liquidated for the benefit of creditors; and

- RP00740 AUSGUM Furniture Expansion wherein two amounts totalling $117 000 (plus GST), representing 90 percent of approved funds, were paid to a private sector applicant on 21 May 2004. DOTARS had not conducted a site inspection. A June 2006 ANAO site inspection revealed that there was substantial doubt as to whether the funds had been used as required by the Funding Agreement to purchase the specified machining centre. By August 2007, a financial acquittal as required under the Funding Agreement had still not been provided to DOTARS. In October 2007, DOTARS advised ANAO that it had considered its options and would be terminating the Funding Agreement. The department would not make the outstanding final payment due to non compliance with the reporting requirements of the Funding Agreement and would be seeking to recover the unspent portion of Regional Partnerships funding.

Changed internal procedures

5:4.67 In June 2007, DOTARS advised ANAO that:

> The project Risk Thresholds Table in earlier versions of the Procedures Manual is a tool and not a mandatory prescription for site visits.
>
> Increasingly, funding recipients are being asked to provide evidence such as photos which can readily be forwarded electronically to substantiate progress on a project. While this may not suffice in every case, such evidence can assist in the ongoing monitoring of a project’s progress.
>
> Other methods used to verify progress include independent evidence (such as advice from the local ACC or local Council) and reports where this is more efficient than an actual site visit.
>
> …The department endeavours to coordinate site visits to appropriate projects with other responsibilities such as attendance at ACC meetings and the like. This is not possible in every case. There is however a suite of activities that can be undertaken in order to ensure the designated project officer monitors the project’s progress—including but not limited to phone calls, letters requesting updated information, progress reports and on occasion, site visits. The mix of these is based on the level of risk allocated to the project.

5:4.68 In this context, Section 7: *Funding Agreement Management and Completion* of the revised Internal Procedures Manual provided by DOTARS to ANAO in

May 2007 includes a section relating to site visits. Departmental procedures now require that:

> Site visits should only be undertaken following approval by the Regional Manager based on consideration of the following factors:
>
> - cost benefit
> - the level of risk associated with the project, and
> - Occupational Health and Safety Risks (OH&S).

Recommendation No.18

5:4.69 ANAO *recommends* that the Department of Transport and Regional Services improve its oversight of the timely completion of Regional Partnerships projects by:

(a) completing and implementing planned systems to promote the timely receipt and analysis of progress reports required from funding recipients;

(b) monitoring delayed projects by requiring additional, and possibly more frequent, progress reports from the funding recipient; and

(c) using data obtained from progress reports as the basis for measuring the performance of the Programme in obtaining anticipated outcomes in a timely manner, and the reasons for any delays.

DOTARS response

5:4.70 Agreed.

5:5 Project Outcomes

This chapter examines the extent to which funded projects are delivering the outcomes that were intended to be obtained from the provision of Regional Partnerships funding, as measured by data reported to DOTARS by funding recipients.

Introduction

5:5.1 Effectiveness indicators demonstrate the extent to which outputs and/or administered items make positive contributions to specified outcomes. In this respect, an ANAO performance audit report titled *Performance Information in Portfolio Budget Statements*[657] recommended that agencies review their performance information to ensure that effectiveness indicators focus on the agency's particular contribution to a Government policy outcome.[658] In commenting on that audit report, DOTARS agreed with the recommendation.

5:5.2 As illustrated by Table 5:1.1 in Chapter 1 in this part of the audit report, in 2003–04 and 2004–05 the Regional Partnerships Programme's effectiveness performance indicator was expressed by DOTARS as:

> Communities have improved growth and opportunities, access to services, support for planning, and assistance in structural adjustment.

5:5.3 Since 2005–06, the Programme's effectiveness indicator has been expressed as:

> Funded projects improve regional growth and opportunities, access to services, planning and structural adjustment.

Performance targets

5:5.4 In general, targets should be set for effectiveness indicators.[659] Targets provide a basis for performance assessment and, from an accountability perspective, help Parliament to assess if a programme and the administering agency are delivering to expectations. Targets can also encourage agency performance. In this respect:

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[657] ANAO Audit Report No.18 2001-2002, *Performance Information in Portfolio Budget Statements,* Canberra, 1 November 2001.

[658] ibid., Recommendation No.1, pp. 19–20.

[659] ANAO *Better Practice Guide-Performance Information in Portfolio Budget Statements*, op. cit., p. 25.

> Targets express quantifiable performance levels or changes of level to be attained at a future date, as opposed to the minimum level of performance. They may be a range or an absolute number, but they should never be vague or unmeasurable. They should focus on factors that managers can influence and may relate to either the overall outcome or output performance or the factors that lead to success. It may be necessary to have multi year targets which address the achievement of intermediate outcomes leading to achieving overall outcomes in a specified number of years. However, targets should not become the focus of achievement in their own right at the expense of overall performance.[660]

5:5.5 At no stage have effectiveness targets for the Regional Partnerships Programmes been set, or reported against, by DOTARS. Rather, the department's performance reporting in relation to the Programme has involved providing broad statistics on the number of approved grants and amount of approved funding, together with a small number (between three and five projects in each year) of examples of projects approved for funding. In this respect, performance information published by the department in its annual reports has been limited and has not provided Government or the Parliament with a balanced assessment of Programme achievement.

5:5.6 Assessing the effectiveness of a programme as diverse as Regional Partnerships is challenging. Nonetheless, to provide confidence that the Programme is meeting its policy objectives and the funding is appropriately allocated and managed, DOTARS should seek to establish effectiveness measures as a basis for performance measurement and reporting. In this way the department would be better placed to inform Government of the Programme's performance and any options for improvement. As a starting point it would be beneficial for the department to compile performance information on the extent to which projects have been completed:

- in accordance with the timeline and budget specified in the Funding Agreement;
- having secured the partnership funding endorsed by Ministers when Regional Partnerships was approved; and
- with the contracted outcomes having been demonstrably achieved.

5:5.7 In this respect, in October 2007 DOTARS advised ANAO that:

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[660] ANAO Audit Report No.18 2001-02, op. cit., p. 51.

The Department is in the process of commissioning an external consultant to undertake an evaluation of the *Regional Partnerships* Programme to review the Programme in terms of effectiveness, efficiency and appropriateness. This evaluation will include an assessment of the Programme's outcomes and advise and report against performance measures.

When finalised, the Evaluation report will be publicly available.

Contracting for project outcomes

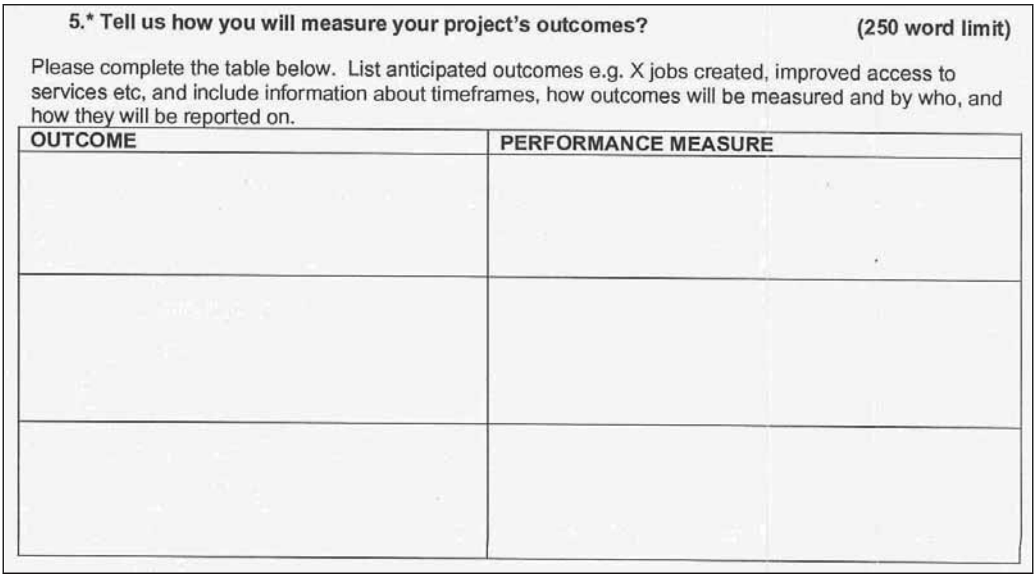
5:5.8 The various versions of the Regional Partnerships application form in place during the first four years of the Programme required that applicants provide information to DOTARS on the anticipated project outcomes. This included a description of:

- the project and its rationale, including the outcomes of any consultations, surveys, community meetings, business plans, feasibility studies and alignment to the region's priorities (such as those identified by the relevant ACC in its strategic plan);
- the benefits to the community that would result from the project, and how these benefits will be measured; and
- how the project would affect other businesses or groups.

5:5.9 In addition, applicants seeking more than $25 000 in Regional Partnerships funding were required to include a description of how the project would be implemented and complete a table nominating the outcomes to be achieved by their project, information about timeframes, how the outcomes would be measured and by whom, and how they would be reported on (see Figure 4:3.1).

Figure 5:5.1

Outcomes information required from applicants



5.* Tell us how you will measure your project's outcomes? **(250 word limit)**

Please complete the table below. List anticipated outcomes e.g. X jobs created, improved access to services etc, and include information about timeframes, how outcomes will be measured and by who, and how they will be reported on.

OUTCOME	PERFORMANCE MEASURE

Source: Regional Partnerships application form for projects seeking more than $25 000 in Regional Partnerships funding, March 2006 version, p. 10.

Project assessment results

5:5.10 In terms of project assessments, of 1 370 completed assessments[661] on which a funding decision had been taken by 30 June 2006, DOTARS assessed 264 projects as not fully satisfying the outcomes criterion (64 per cent of not recommended projects). One project was recommended for partial funding due to the department assessing the outcomes to be relatively poor, but was approved for full funding due to the then Parliamentary Secretary considering that the outcomes were strong. The other 263 projects assessed as not fully satisfying the outcomes criterion were not recommended for any Regional Partnerships funding. Of these:

- 239 projects (91 per cent) were not approved to receive any Regional Partnerships funding; and

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[661] Including six assessments undertaken after the Ministerial decision-maker had approved funding, but excluding two approved projects for which a departmental assessment against the Regional Partnerships assessment criteria was not prepared and seven projects that were not funded but for which a formal Ministerial decision not approving funding (or formal withdrawal by the applicant) was not recorded.

- 24 projects (nine per cent) were approved for full Regional Partnerships funding by the Ministerial decision-maker.

5:5.11 In total, 97 per cent of 981 individual projects approved to 30 June 2006 had been assessed by DOTARS as satisfying the outcomes criterion.

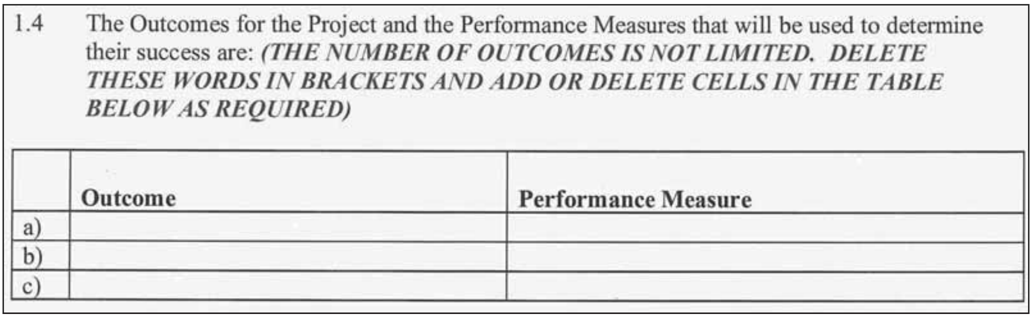
Funding Agreement framework for promoting project outcomes

5:5.12 Where projects have been approved by Ministers, it has been on the basis of the outcomes expected to be achieved.[662] In this context, the Funding Agreement is a key tool for securing the outcomes that were the basis of approval for project funding. To do this, the Funding Agreement should reflect, comprehensively and accurately, the outcomes that were advised to the Minister as part of the approval process. In particular:

- the schedule to the Funding Agreement is to include project outcomes and associated performance measures (see Figure 5:5.2); and
- funding recipients are to report on progress towards, and achievement of, the specified outcomes.

Figure 5:5.2

Funding Agreement specification of outcomes and performance measures



1.4 The Outcomes for the Project and the Performance Measures that will be used to determine their success are: *(THE NUMBER OF OUTCOMES IS NOT LIMITED. DELETE THESE WORDS IN BRACKETS AND ADD OR DELETE CELLS IN THE TABLE BELOW AS REQUIRED)*

	Outcome	**Performance Measure**
a)		
b)		
c)		

Source: Regional Partnerships Long Form Standardised Funding Agreement, downloaded from DOTARS' Regional Partnerships website 18 July 2007.

5:5.13 In terms of contracting for outcomes and their measurement, the June 2004, September 2004, February 2005 and September 2005 versions of DOTARS' Internal Procedures Manual stated that:

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[662] DOTARS, *Regional Partnerships Procedures Manual*, 3 May 2007, Section 6: *Funding Agreement Development and Execution*, p. 17.

> By having applicants report on both milestone and outcome performance indicators we get a clearer indication of the projects full impact. Also the information collected assists the department to report to government against its objectives of increasing business activity, employment growth, and investment activity in lagging regions.
>
> In summary, by collecting the above performance information in the Reporting Schedule of Funding Agreements we are better able to quantify for program reporting and evaluation purposes. Most importantly, applicants and their partner regional organisations will be able to report back to their local community on the impacts of their activities in a far more detailed and informed way.[663]

5:5.14 However, in the sample examined by ANAO, it was commonplace for Funding Agreements to:

- exclude reference to some of the anticipated outcomes included in the application for Regional Partnerships funding and/or endorsed by the Ministerial decision-maker(s); and/or
- require the project to produce lesser outcomes than those included in the application for funding and/or endorsed by the Ministerial decision-maker(s).

5:5.15 In addition, the specification of outcomes and the related performance measures for some projects was such that the Funding Agreement did not promote the achievement of value for money from the expenditure of public money, as illustrated by the following examples:

- The key outcome to be achieved by RP00936 Horse Australia 2005 (which is the subject of an ANAO case study) was attracting an additional 20 000 visitors so as to provide an economic impact of $2 million to the Rockhampton region. Since 2003, a campdraft has been held each year at a purpose designed and constructed complex situated on Paradise Lagoons near Rockhampton, attracting in the vicinity of 10 000 visitors each year. However, in no case did the application for Regional Partnerships funding, DOTARS' project assessment, the Funding Agreement or reporting obtained by DOTARS on project outcomes differentiate between the existing visitor numbers and

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[663] DOTARS, *Regional Partnerships Internal Procedures Manual*, June 2004, p. 139, *Regional Partnerships Internal Procedures Manual*, September 2004, p. 134, *Regional Partnerships Internal Procedures Manual*, February 2005, p. 141, *Regional Partnerships Internal Procedures Manual*, September 2005, p. 148.

economic impact already being achieved from the annual Paradise Lagoons campdraft, and any additional outcomes that could be expected to result from Horse Australia 2005.[664]

- In respect to RP00289 Australia's National Mineral Water and Bathhouse Facility, $500 000 (plus GST) in Regional Partnerships funding was approved for the purposes of constructing a universally accessible bridge, foyer and lift so as to improve access and amenity and provide an 'icon' entranceway to the Bathhouse. However, the Regional Partnerships Funding Agreement was not structured in a way that enabled an assessment to be made of the extent to which Regional Partnerships funding achieved the desired outcomes. Instead, the outcomes and performance measures specified in the Funding Agreement focused on the broader State Government redevelopment project, which was proceeding irrespective of whether Regional Partnerships funding was provided.

5:5.16 The Regional Partnerships Programme improvement initiatives advised to ANAO by DOTARS in December 2006 and May 2007 included:

- clarifying the Internal Procedures Manual regarding the identification of outcomes within the Funding Agreement to indicate that these are what is expected to be delivered over time as a result of the project, rather than expecting all outcomes to be evident the moment the project is completed;[665] and
- providing training to Regional Office and National Office staff to ensure there is a comprehensive understanding of the difference between a project output and project outcomes, and how this can be reflected in the wording of the Funding Agreement.

5:5.17 In addition, Section 6: *Funding Agreement Development and Execution* of the revised Internal Procedures Manual provided by DOTARS to ANAO in May 2007 now includes procedures that:

- the Funding Agreement must be based on the decisions made by the Ministerial Committee;

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[664] As the Post Activity Report provided to DOTARS by the funding recipient advised that a total of 22 000 visitors attended the various equestrian activities held in Rockhampton during the period Horse Australia 2005 was held, the available evidence is that the additional visitors that could be attributed to the staging of the Horse Australia event would not have been more than 12 000.

[665] Similar advice had been included in earlier versions of the Internal Procedures Manual.

- when preparing the Funding Agreement, Regional Office staff must establish whether anything relating to the project has altered since the application was submitted and approved, such as scope, timeframes, funding partners and cost escalations;
- milestone descriptions included in the Funding Agreement must not vary in substance the project intent, outcomes and partnerships from that approved by the Ministerial Committee; and
- the official delegated to sign the Funding Agreement should, before signing, review the Agreement to ensure a range of requirements are met, including that the Funding Agreement accurately reflects the project and activity approved by the Ministers.

Capturing and using data on project outcomes

5:5.18 In relation to evaluating individual grants, the ANAO Administration of Grants Better Practice Guide states that:

> The evaluation of individual grants is best achieved through robust performance management supported by a sound monitoring regime. Performance information, specified in funding agreements, should enable an assessment of the effectiveness, efficiency and appropriateness of the individual grant throughout the life of the grant. Monitoring throughout the life of the project should focus, to the extent possible, on the contribution to overall program objectives as well as the achievement of project specific goals. On the completion or termination of a grant it should be evaluated in terms of the project specific and program related objectives.[666]

5:5.19 Consistent with these principles, the Regional Partnerships Long Form Standardised Funding Agreement requires funding recipients to report details of their project's progress towards, and performance against, the specified outcomes, as outlined in Table 5:5.1.

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[666] ANAO Better Practice Guide-Administration of Grants, op. cit., pp. 63–64.

Table 5:5.1

Outcome reporting requirements of Progress Report and Post Activity Report

Progress report	Post Activity Report
The Progress Report/s must contain: a) details of progress and performance to date, if any, against the Outcomes listed at Item 1.4.	The Post Activity Report identified at Item 3.1, due after the expiry of the Activity Period, must contain: a) an evaluation that includes: (i) a summary of Your performance against the outcomes and Milestones specified.

Source: Standardised version of the Funding Agreement.

5:5.20 In terms of an outcomes report, the September 2005 version of the Internal Procedures Manual was amended from previous versions to include the following:

> Outcome Evaluation reports will be required for the majority of projects. In negotiating the Funding Agreement, Regional Office staff should consider the likely time it will take for outcomes to be realised. In some cases this will be obvious at the end of the project, and in others it may take 12 months or longer. Applicants should also have the ability to report on the agreed outcomes (for example, agreed access to local government data). On receipt of the report a copy should be sent to the Analysis and Evaluation Section and the original placed on file.

Obtaining project outcome reports from funding recipients

5:5.21 The audit sample included 88 projects that had been completed to DOTARS' satisfaction with all payments of Regional Partnerships funds having been finalised. In all but one instance, the Funding Agreement included at least one expected outcome from the project.[667] Of the remaining 87 projects,

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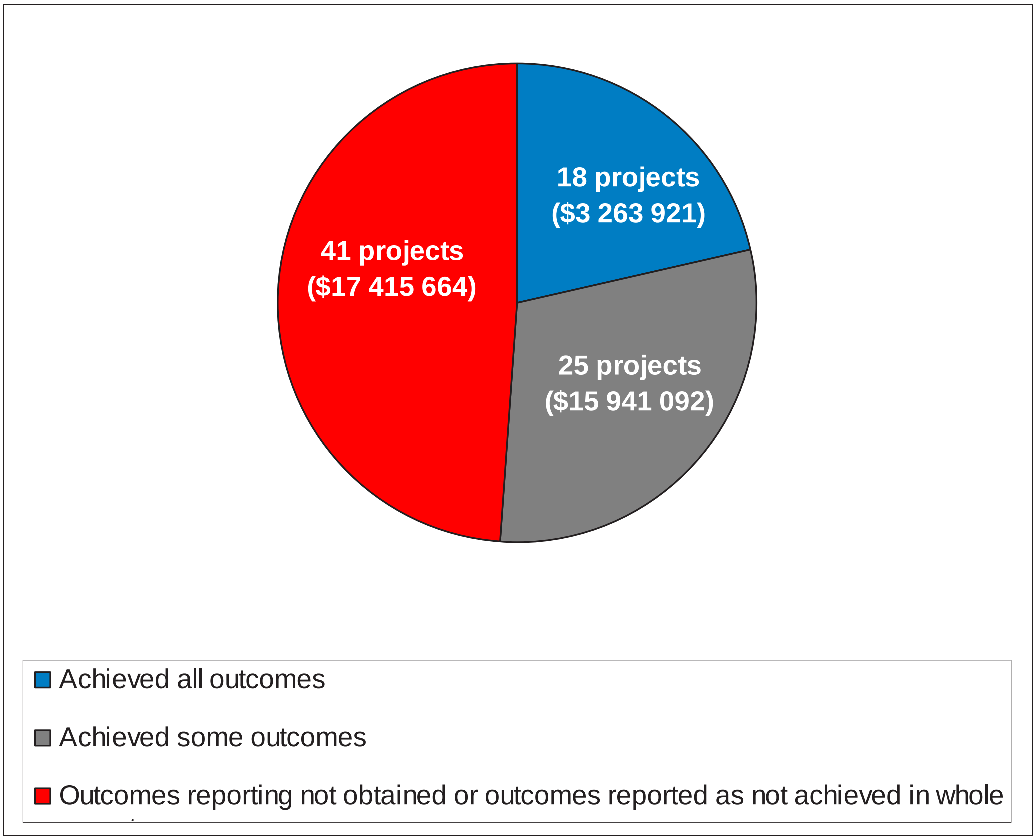
[667] The exception related to RP00577 Skills Centre Training/Operation Equipment. The application for that project had sought $9 740 (plus GST) in Regional Partnerships funding for a project that would have four outcomes being the purchase of a forklift; improved safety actions in relation to heavy lifting being displayed by all apprentices and staff; an increase in income generation from industry work; and a reduction in equipment hire costs in relation to forklift hire. The departmental assessment provided to the then Parliamentary Secretary had advised that the applicant satisfied the outcomes criterion and that: 'the project will strengthen growth and opportunities through increasing employment opportunities within the region. This project will value add to the Job Skills Centre's achievements by allowing apprentices to increase their skills thereby better meeting the skill shortage in these regions. This will be achieved by apprentices learning how to maintain the forklift as well as undertake 'live' work will generate income which will assist in sustaining the Centre in the longer term.' However, the Funding Agreement prepared by DOTARS did not identify any outcomes or associated performance measures for the project.

there were three where reports on the achievement of contracted outcomes were not due at the time ANAO audit fieldwork was completed. In respect to the remaining 84 projects, as illustrated by Figure 5:5.3:

- the funding recipient in respect to 18 projects (21 per cent) had reported information to DOTARS that supported an assessment that all outcomes had been achieved. In aggregate, these projects involved Regional Partnerships funding of $1 092 823 (plus GST) as part of aggregate project cash budgets of $3 263 921;
- the funding recipients for a further 25 projects (30 per cent) had reported information to DOTARS that supported an assessment that some of the outcomes had been achieved. In aggregate, these projects involved Regional Partnerships funding of $5 284 609 (plus GST) as part of aggregate project cash budgets of $15 941 092; and
- there were 41 projects (49 per cent) where DOTARS did not obtain any reporting on the contracted outcomes or the reporting that was obtained demonstrated that the outcomes had not been achieved in whole or part. In aggregate, these projects involved Regional Partnerships funding of $6 711 737 (plus GST) as part of aggregate project cash budgets of $17 415 664. More specifically, the deficiencies in outcomes reporting involved:
    - 15 projects where DOTARS did not obtain a Post Activity Report before making the final Regional Partnerships payment and closing its administration of the grant;
    - a further 15 projects where a report was obtained from the funding recipient but the report did not address the project outcomes and related performance measures specified in the Funding Agreement; and
    - 11 projects where the information provided to DOTARS revealed that the funding recipient had not met the project outcomes when assessed in terms of the contracted performance measures.

Figure 5:5.3

Reporting on project outcomes: completed projects in the audit sample



Source: ANAO analysis of project outcome reporting obtained by DOTARS from funding recipients in the ANAO sample.

Revised outcomes reporting arrangements

5:5.22 DOTARS' December 2006 and May 2007 advice to ANAO of improvements to Programme administrative arrangements to address issues raised in the course of the audit included a number of changes that may be expected to improve the attention given to obtaining and assessing reports on project outcomes. In particular:

- the fostering of the concept of a 'centre of excellence' in Funding Agreement management with a dedicated section maintaining a focus on, amongst other things, ensuring the requirements of progress reports and Post Activity Reports are satisfied (including reading acquittals and audited statements);

- the instigation of periodic internal desk audits of Regional Offices' files and Funding Agreements to ensure all aspects of a project record are adequately documented and appropriately filed for future reference and that Funding Agreements are sound and incorporate any conditions imposed by the Ministerial Committee in their approval of the project; and
- random audits of Regional Office administrative records to be undertaken by the department's contracted internal auditors to provide a more detailed analysis of Funding Agreement development and management compliance and consistency.

5:5.23 In addition, Section 6 ('Funding Agreement Development and Execution') of the revised Internal Procedures Manual provided by DOTARS to ANAO in May 2007 included revised outcomes reporting arrangements. Specifically, the Post Activity Report is to be replaced with an 'outcomes report'. Whereas the majority of signed Funding Agreements in the audit sample required a Post Activity Report to be provided prior to the final instalment of Regional Partnerships funds being paid, the revised Internal Procedures Manual states that the outcomes report will be required six, 12 or 18 months after the project has been completed. The exact timeframe is to be determined having regard to the nature of the project outcomes and the projected timeframe for the outcomes to be realised and effectively measured.

5:5.24 Greater definition of the outcomes reporting requirements should be of assistance in improving the department's performance in evaluating individual grants. However, realising the anticipated benefits depends to a significant degree on greater attention being given to the importance of obtaining and assessing outcomes-related performance information. In this respect, the Long Form Standardised Funding Agreement used for most Regional Partnerships projects in the audit sample included an effective framework for DOTARS to have requested additional information on the success of the project in achieving its stated outcomes at any time, including after the term of the Agreement. This power was provided by Clause 3.6 of the Schedule to the pro-forma Long Form Standardised Funding Agreement, as follows:

> For programme evaluation purposes you may also be required at any time to provide information on the success of the Project in achieving its stated Outcomes. This Item 3.6 survives the expiration or earlier termination of the Term of this Agreement.

5:5.25 However, for 81 of the 182 projects (45 per cent) in the audit sample that had a Funding Agreement in place based on the Standardised Funding Agreement, DOTARS had amended the pro-forma Funding Agreement to remove the standard words stating that the clause requiring the funding recipient to provide additional programme evaluation reporting if it was sought by DOTARS would survived the expiration or earlier termination of the Funding Agreement. Accordingly, for these projects, there is some doubt about whether the Funding Agreement provided an effective framework for obtaining additional outcomes reports from funding recipients.[668]

5:5.26 Of the relevant 84 completed projects in the audit sample,[669] 68 projects (81 per cent) had Funding Agreements[670] which identified future outcomes that were expected to be achieved after the expiry of the activity period. In addition, 57 of these 68 projects (84 per cent) had at least one outcome that was expected to be completed after the due date for the Post Activity Report. For these projects, further reporting on project outcomes beyond the term of the Agreement could have been requested by DOTARS.[671] However, DOTARS requested additional reports for only 13 of the 57 projects (23 per cent).[672]

5:5.27 Accordingly, the key issue in this area going forward will be the extent to which Funding Agreement managers actually obtain project outcome reports from funding recipients.

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[668] In this respect, on 8 October 2007, DOTARS advised ANAO that: 'The Department notes that Clause 3.6 of the current Standardised Funding Agreement Schedule states '*For Programme evaluation purposes, You must, at any time required by Us, provide information on the success of the Project in achieving its stated outcomes.'* Clause 9 of the Funding Agreement requires reporting obligations of funding recipients. Clause 9.6 states: '*The operation of this clause 9 survives the expiration or earlier termination of the Term of this Agreement.'* These revised provisions as set out in the revised Standardised Funding Agreement (which was issued for use from August 2007) provide a stronger framework for requiring outcomes reporting from funding recipients that was provided by the provisions of the Standardised Funding Agreement used during the first four years of the Programme. However, as was identified by ANAO in relation to the sample of Funding Agreements examined as part of the audit, the effectiveness of the revised provisions will be reliant, to some extent, on the extent to which DOTARS officials delete or amend such standard provisions in the preparation of the pro-forma Funding Agreement executed with individual funding recipients.

[669] See paragraph 5:5.21.

[670] This figure includes for analytical purposes the Memorandum of Understanding between DOTARS and Telstra that governed RP00833 Christmas Island Mobile Upgrade Project.

[671] For 30 of these projects, the Schedule to the Funding Agreement had been amended from the pro-forma, in the manner described in paragraph 5:5.25.

[672] Of the 13 projects where DOTARS has sought further reporting on project outcomes, in six instances the additional reporting was requested after an ANAO inquiry into the project.

Programme evaluation

5:5.28 As noted in Chapter 1 of this part of the audit report, a key component of successful grants management is that the performance information framework be complemented by a programme evaluation strategy that assists with the agency's management of grants and provides adequate performance information for external accountability. Previous ANAO performance audits[673] have highlighted that performance information requirements set out in Funding Agreements should provide information to enable broader programme monitoring, and link with the relevant department's higher-level performance reporting requirements contained in its Portfolio Budget Statements and Annual Report.

Annual State of the Programmes Report

5:5.29 In preparing for the implementation of the Regional Partnerships Programme, in July 2002, DOTARS advised the then Minister for Transport and Regional Services that:

> The Taskforce's analysis of current programme trends and performance clearly informed the approaches developed under the new regional package. Regular analysis should continue to provide Ministers and programme managers with evidence of achievement and emerging needs, and for guideline adjustments, as well as for resourcing levels.

5:5.30 In this respect, the then Minister agreed to a DOTARS recommendation that the department provide portfolio Ministers with an *Annual State of the Programmes Report* that comprehensively analyses programme trends and performance against Government's policy objectives. However, the Annual State of the Programmes Report agreed to by the then Minister was not progressed and implemented by the department.

Mid-term programme evaluation

5:5.31 DOTARS informed the Senate Committee that its evaluation strategy for the Regional Partnerships Programme was in three stages, as follows.

> The first is a post-implementation review which measures each programmes implementation activities. The second stage gathers information on the impacts of projects under each programme, e.g., number of jobs generated, capital works completed. The first two stages are conducted in-house by

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[673] See, for example, ANAO Audit Report No.47 2005–06, op. cit., p. 74.

> DOTARS. The third stage is an external evaluation of each of the programmes conducted by an independent consultant through a tender process.[674]

5:5.32 The Senate Committee was further advised by DOTARS that, as part of the first stage evaluation of the Regional Partnerships Programme, an internal review of projects was conducted and that:

- the second stage was scheduled for 2006; and
- the external evaluation would begin in June 2006.[675]

5:5.33 At the time of ANAO audit fieldwork, the external evaluation had not commenced but the mid-term (Stage Two) evaluation of the Regional Partnerships Programme had been completed (in November 2006). The report of the mid-term evaluation stated that it:

> measures the programme's intermediate outcomes (impacts) by analysing programme data and activities for the period July 2003 to 31 December 2005. The report seeks to qualify and quantify the programme's progress in terms of its effectiveness and appropriateness at assisting regions to manage their own futures. The report also presents stakeholder perceptions on levels of client satisfaction with the *Regional Partnerships* programme.[676]

5:5.34 In terms of categorising and analysing project outcomes, the evaluation used project assessment and Funding Agreement data together with surveys of Programme applicants. This meant that the evaluation was not informed by analysis of actual, demonstrated outcomes formally advised by funding recipients through the Funding Agreement reporting framework. In relation to the use of funding recipient reporting of project outcomes for programme evaluation purposes, DOTARS advised ANAO in May 2006 that:

> Project outcomes reports have been coming in dribbles from Regional Offices, so in March this year I did a tour of all Regional Offices to update them on our requirements and to remind them that the follow-up on these reports is their responsibility. Some offices have been better than others at implementing this system. However, now that Regional Partnerships has a sufficient number of completed projects we can expect the collection of outcome reports to increase. We add these reports to our Key Performance Indicators data base, and intend to start collecting stories on completed project as part of the broader

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[674] DOTARS, *Inquiry into the Regional Partnerships Programme and Sustainable Regions Programme—Submission by the Department of Transport and Regional Services*, 28 January 2005, p. 21.

[675] Senate Committee Report, op, cit., p. 38.

[676] ibid., p. 1.

> communication strategy for reporting Regional Partnerships successes (actual strategy yet to be agreed).
>
> A point of clarification. The Regional Partnerships evaluation strategy is designed to collect sufficient information on projects to report on the program's performance—it is not designed to do individual project evaluation. To do individual project evaluation on all completed Regional Partnerships projects would require site visits, validation of jobs numbers (that is, checking the books of applicants and the books of others), doing stakeholder (user, customer) surveys, validating multiplier effects on other business and the wider economy, doing some type of counter factual and/or cost benefit analysis on each project etcetera. A very time consuming and resources intensive activity.

5:5.35 However, the importance of project outcomes to programme evaluation was emphasised by the Senate Committee. Specifically, in its inquiry report, the Committee stated that:

> While DOTARS provided evidence about the macro-level assessment of the Sustainable Regional Programme and the Regional Partnerships Programme, the Committee notes that there is little evidence of evaluation of the outcomes of individual projects—evaluation of which is fundamental to any measure of the success or otherwise of the Programmes. The Committee also notes the absence of a clear link between Regional Partnerships or Sustainable Regions funding and demonstrated regional development outcomes commensurate with the quantum of funding.[677]

5:5.36 In October 2007, DOTARS advised ANAO that:

> the Department is developing a framework for the management of *Regional Partnerships* Outcomes Reports. Two key goals of the framework are:
>
> - adopting an integrated approach to identifying and presenting case studies with good project outcomes and inform on the impact that the *Regional Partnerships* Programme has made against its stated objectives; and
> - maintaining a regular reporting regime.

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[677] Senate Committee Report, op. cit., p. 39.

Recommendation No.19

5:5.37 ANAO *recommends* that the Department of Transport and Regional Services promote the achievement of, and accountability for, outcomes for approved Regional Partnerships projects by:

(a) establishing and reporting against effectiveness targets for the Programme; and

(b) using data reported by funding recipients on the extent to which the project has achieved the outcomes specified in the Funding Agreement (as measured by the contracted performance measures) to:

  (i) inform future Programme evaluations, and

  (ii) provide more comprehensive reporting in departmental Annual Reports of the achievement of expected project outcomes.

DOTARS response

5:5.38 Agreed.

Project costs

5:5.39 The extent to which the project budget presented by an applicant for Regional Partnerships funding represents a realistic and reliable estimate of project costs is an important element in any assessment of whether the expected project outcomes are likely to be secured in an efficient and effective manner. Accordingly, scrutinising the project budget (including anticipated project costs) is an important activity for DOTARS when assessing Regional Partnerships applications. Specifically:

- the stated purpose of assessments against the project viability criterion is to ensure that the projects funded by the Australian Government will not need further funding to enable the outcomes to be completed or sustained;
- assessments against the partnerships and support criterion are expected to include examination of the extent to which applicants, the Regional Partnerships Programme and other relevant parties are making a financial contribution towards the cost of the project; and
- the cost of the project compared to the anticipated benefits is an issue to be addressed in terms of overall value for money to the Commonwealth of providing the requested quantum of grant funding to a project.

5:5.40 In this context, as a funding provider, it is important that DOTARS be an 'informed client' so as to appreciate the circumstances and context in which project proponents prepare their applications for funding (including project cost estimates).[678] Specifically, an informed funding provider develops sufficient understanding of the key components that make up project estimates and carries out a reasonable level of diligence as to whether cost estimates have been prepared in an appropriate manner for the given stage of the project cycle.[679]

5:5.41 However, there were a number of projects in ANAO's sample where it was evident that the department had not obtained sufficient appropriate information on the project budget to inform its assessment of the application for funding. There were also a number of projects in ANAO's sample where the department had applied insufficient scrutiny to the project cost information provided by the applicant. This was the case, for example, in respect to the ANAO case studies of:

- RP00908 Lakes Creek Upgrade;
- RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith;
- RP01364 Country Homes and Cabins; and
- RP01365 Undercarriage Remanufacture Facility.

Construction projects

5:5.42 ANAO analysis of cost variations for projects in the audit sample revealed that the more substantial cost increases often related to construction projects. In this context, of the 278 applications in ANAO's sample, 164 (59 per cent) involved construction projects. Of those, 133 were approved for funding, representing an approval rate of 81 per cent. By 31 December 2006, Funding Agreements had been entered into in relation to 121[680] of the 133 approved construction projects, involving Regional Partnerships funds of $24 010 721 (plus GST), for projects with an aggregate total cash value of $109 986 865. That

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[678] Evans & Peck, *A Review of the reliability of Cost Estimation of QDMR Projects funded under AusLink*, report commissioned by DOTARS, 27 June 2007, p. 37.

[679] ibid.

[680] This includes one Funding Agreement that was subsequently terminated, with Regional Partnerships funds being repaid to DOTARS.

is, in aggregate, Regional Partnerships was contributing 22 per cent of the total cash cost of these construction projects.

5:5.43 Two key factors which impact on the project budget for construction projects seeking Regional Partnerships funding are:

- available capacity within the construction industry having regard to the construction cycle; and
- the level of maturity of the project (and subsequently the project budget) at the time Regional Partnerships funding is sought.

The construction industry

5:5.44 The Australian Bureau of Statistics has reported that total production of the construction industry, as measured by Gross Value Added (GVA)[681], has increased steadily since 2000–01.[682] In this context, the Construction Forecasting Council[683] has also reported that non-residential building[684] activity rose strongly in 2004–05 and 2005-06.[685] Nationally, non-residential building activity is forecast to grow moderately in 2006–07, and then ease back in 2007–08, with continuing growth out to 2012–13.

5:5.45 The high level of industry activity presents challenges to entities undertaking and/or funding construction projects. In particular, for some years construction prices have been increasing more rapidly than the Consumer Price Index in all States and Territories, with the exception of the Northern Territory.[686] These increases reflect rising labour and materials costs as well as price pressures resulting from high levels of construction activity and low resource availability (including shortages of qualified and skilled staff in fields such as engineering and various trades).

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[681] The contribution of an industry to the overall production of goods and services in an economy is measured by Gross Value Added.

[682] Australian Bureau of Statistics, *Year Book Australia 2007*, 24 January 2007.

[683] The Australian Construction Industry Forum (ACIF) is the peak consultative organisation of the building and construction sectors. ACIF established the Construction Forecasting Council as an industry initiative with support from the Department of Industry, Tourism and Resources.

[684] The construction industry engages in three broad areas of activity: residential building; non-residential building; and engineering construction (such as roads, bridges, water and sewerage). Construction projects funded by the Regional Partnerships Programme in ANAO's sample predominantly involved non-residential construction.

[685] See: http://www.cfc.acif.com.au/summary.asp.

[686] Rawlinsons, *Australian Construction Handbook*, Edition 24, 2006, pp. 4–19.

5:5.46 In an environment of ongoing significant increases in construction costs, a key issue for DOTARS to address in its assessment of applications for funding involving construction work is to determine whether the applicant has considered the likelihood of cost increases as well as how the applicant proposes to manage the risks associated with such increases.

5:5.47 Where project risks are not adequately identified and the likelihood and/or the impact of the risk(s) on the project are underestimated, it can be referred to as 'optimism bias'. There is a recognised tendency towards optimism bias in construction projects in relation to the risk of cost increases and time schedule delays.[687] This risk is heightened in an environment of strong growth in construction activity levels, and/or increases in construction costs, as has existed since the Regional Partnerships Programme commenced.

5:5.48 At the time of audit, there were 53 construction projects in the ANAO sample that had been completed and a financial acquittal provided to DOTARS. However, in six of these cases, the financial acquittals provided did not include the final cost of the project, notwithstanding that the Funding Agreements required this information. Of the remaining 47 projects, 33 (or 70 per cent) experienced increases in project costs from the budget included in the application, departmental assessment and Funding Agreement. Further, as illustrated by Figure 5:5.4, the size of those cost increases was often considerable.

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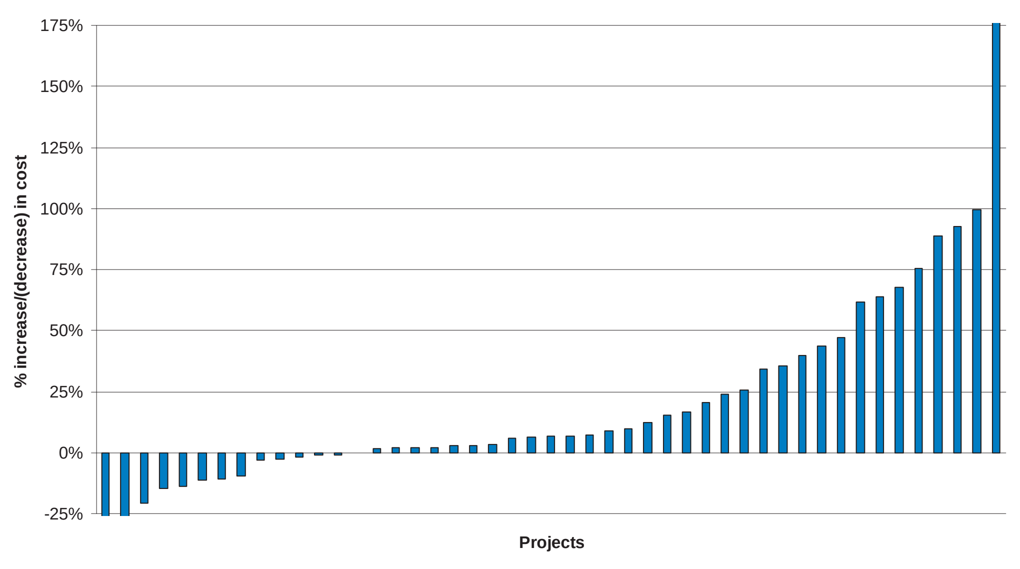
[687] See, for example, The British Department for Transport, *Procedures for Dealing with Optimism Bias in Transport Planning*, Guidance Document, June 2004.

Figure 5:5.4

Size of cost changes for sampled construction projects



Source: ANAO analysis of project costs as reported to DOTARS by funding recipients in ANAO sample.

Project maturity

5:5.49 Construction projects are complex as well as dynamic, passing though several discrete phases of initiation, documentation and delivery.[688] As the project scope and design detail is refined and the uncertainty reduced, it is reasonable to expect that project cost estimates become more accurate and variation from actual project costs should diminish over time. In this context, a key issue for DOTARS to address in its assessment of applications for funding involving construction work is how refined the cost estimates are that are used to support the project budget, based on the level of project maturity.

5:5.50 Generic project life-cycle phases and associated cost management plans are shown in Figure 5:5.5. The extent of cost management activities that occur at each project phase depends, to some extent, on budgetary constraints and the complexity of the construction project being delivered.

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[688] Construction Industry Development Agency, *Construction Industry Project Initiation Guide for Project Sponsors, Clients & Owners*, Second Edition, Commonwealth of Australia, November 1994, p. 10.

Figure 5:5.5

Generic project phase and estimate timeline

Project Phase	Pre-project/ inception	Concept	Development		Implementation	Finalisation
Process	Strategic planning	Proposal including options analysis and business case if required	Preliminary design	Detailed design	Construction	Post-construction
Cost plan stage	Simple order of budget	Brief stage cost	Outline proposal cost	Sketch design cost plan	Accepted tender price	Cost at completion

Project estimate is refined as project increases in maturity

Source: ANAO analysis.

5:5.51 Accordingly, a project budget included in a Regional Partnerships application for funding should generally be more robust the more mature the project is at the time of submitting the funding application. In this context, examples were identified in the audit sample of projects which were approved, and Regional Partnerships funds paid, prior to the project being developed to a stage where necessary approvals could be obtained. Many of these examples have also experienced significant increases in project budget since the application for funding was approved and, where relevant, the subsequent completion of the project. This is illustrated, for example, in the ANAO case studies of RP00769 Redevelopment of Geraldton Surf Life Saving Club and RP00622 Jarrahdale Heritage Park.[689]

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[689] In relation to the latter project, on 28 August 2007, DOTARS advised the Ministerial Committee that: 'A Funding Agreement was executed on 1 October 2004 and payments totalling $340 450 (GST inclusive) have been made. Work on the project has been slow and has now stalled, and following a round of consultation with parties involved in the project, the Department has concluded that the original project scope is no longer achievable, without further funding…To date *Regional Partnerships* has contributed to one pedestrian bridge, extensive walking trails and one section of road…' On 19 September 2007, the Ministerial Committee agreed to a departmental recommendation that it agree to reducing the scope of the project to the work already completed, obtaining a full acquittal of Regional Partnerships funds for the components completed to date and terminating the Funding Agreement. The Shire funding recipient was to be advised of the decision by DOTARS and invited to submit an application for the remaining activities.

Assessment practices

5:5.52 A key issue to be considered in relation to cost increases is whether the project cost estimates on which Regional Partnerships funding was approved were realistic[690] and constructed with rigour.

5:5.53 In some instances, cost estimates were based on broad concepts with no detailed planning having been undertaken to support the calculation of a likely project budget. Case studies that demonstrated this point included RP00891 Rockingham Beach Waterfront Village—Development of a Village Green[691] and RP00622 Jarrahdale Heritage Park. However, the risks inherent in these circumstances were not explicitly considered and addressed by DOTARS in its project assessments. In each instance, the project has cost, or is now expected to cost, significantly more than the budget that informed the decision to approve Regional Partnerships funding.

5:5.54 Specifically, at the time of preparing the Regional Partnerships application, the design of the Village Green project had not advanced to the stage where detailed costings were available – instead, the conceptual design only allowed cost estimates to be provided. The project cash budget at the time Regional Partnerships funding was approved was $2.15 million, but advice to ANAO from the funding recipient is that the project cost $3.61 million to complete.

5:5.55 RP00622 Jarrahdale Heritage Park was approved for funding in June 2004 with an estimated project duration of 24 months. By April 2007, nearly three years after funding was approved, construction had yet to be commenced on the major elements of the project for which Regional Partnerships funding was approved. Two key elements of the Jarrahdale Heritage Park were the construction of an aerial walkway and the construction of an open air amphitheatre. The cost increases for these two aspects are outlined in Table 5:5.2. In this context, in May 2007, the funding recipient advised DOTARS that:

> It also needs to be acknowledged that the extent of detailed planning, design and tender documentation required and the infrastructure services needed to

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[690] By way of comparison, the Deputy Prime Minister and Minister for Transport and Regional Services recently commented that: 'An independent report has found that the Queensland Department of Main Roads grossly underestimated the cost of three major road projects, largely because its staff were too optimistic about the difficulties that would be involved.' Source: Media Release, *Stopping the Cost Blowouts on Queensland Road Projects*, 19 July 2007.

[691] This case study has not been published.

facilitate full implementation of the project were not appreciated at the time of lodging the initial grant application. True costs for construction will not be known until tenders are called. Furthermore, this project was not underpinned by a comprehensive and detailed Business Plan that evaluated and ensured the long term sustainability of the Park. As responsible custodians of the Commonwealth's funding and the Shire's capital, it was incumbent on the Shire's Executive to complete the detailed planning, install essential services and undertake the Business Plan prior to proceeding with calling tenders and the further expenditure of grant and other monies.

I find it understandable that the department may have perceived that there has been a lack of progress on this project, as much of this necessary preparatory work has not resulted in the built structures outlined in the Agreement being constructed within the Park. I am confident that a thorough review of the information provided will lead the department to conclude that considerable progress has been made and that those items that have been completed form the essential building blocks for the successful development of the Park. To have built these project elements in the absence of this preparatory work would not only have been irresponsible but actually impossible in many respects.

Table 5:5.2

RP00622 Jarrahdale Heritage Park Cost increases

Cost element	Regional Partnerships Application	September 2005 Advice to DOTARS from Council	ANAO comment
Aerial Walkway	$350 000	$600 000	71 per cent increase in cost. Development application approved in July 2006 but construction is not to proceed until a Park business plan is completed that confirms this aspect.
Amphitheatre	$80 000	$350 000	340 per cent increase in cost. Amphitheatre was to have been completed with the first Regional Partnerships payment made in October 2004. Not completed when the Ministerial Committee agreed to terminate the Funding Agreement in September 2007

Source: ANAO analysis of DOTARS and Shire of Serpentine-Jarrahdale documentation.

5:5.56 On 28 August 2007, DOTARS advised the Ministerial Committee that:

> A Funding Agreement was executed on 1 October 2004 and payments totalling $340 450 (GST inclusive) have been made. Work on the project has been slow and has now stalled, and following a round of consultation with parties involved in the project, the Department has concluded that the original project scope is no longer achievable, without further funding…
>
> To date *Regional Partnerships* has contributed to one pedestrian bridge, extensive walking trails and one section of road…

5:5.57 On 19 September 2007, the Ministerial Committee agreed to a departmental recommendation that it agree to reducing the scope of the project to the work already completed, obtaining a full acquittal of Regional Partnerships funds for the components completed to date and terminating the Funding Agreement. The Shire funding recipient was to be advised of the decision by DOTARS and invited to submit an application for the remaining activities. However, in November 2007, the Shire advised ANAO that it had not been advised by DOTARS of the decision taken by the Ministerial Committee.

5:5.58 Other project cost estimates were more rigorous. For example, some applicants had sought quotations and/or an estimate from quantity surveyors to underpin the project cost estimate. However, in relying on such data, DOTARS did not assess the currency of the estimates, despite some of them being quite dated at the time the department's assessment was finalised. No allowance was made for cost increases that could be expected to have occurred since the time the estimate on which the Regional Partnerships application for funding was premised was formulated. This was notwithstanding the availability of industry publications to assist entities assess the effect on building costs brought about by periodic variations in the rates of labour and materials, together with the effect of building activity and resource availability (that is, market competition).[692]

5:5.59 In the sample examined by ANAO, it was also commonplace for DOTARS to not assess how the applicant would fund any cost increases, despite the high potential for such increases to occur in construction projects, and the potential effect on project and/or applicant viability. The inadequacies in DOTARS' application assessments addressing the risk of increasing

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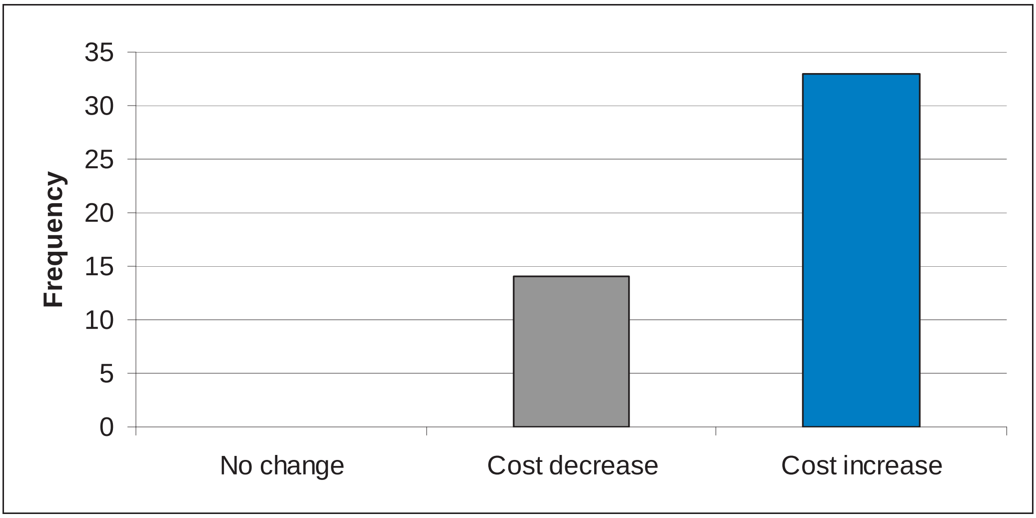
[692] See, for example, Rawlinsons, *Construction Cost Guide 2006 For Housing, Small Commercial and Industrial Buildings*, Edition 14, p. 3.

construction costs is demonstrated by Figure 5:5.6, which shows that 70 per cent of the construction projects in ANAO's sample that had been completed and financially acquitted experienced increases in project costs. Specifically, there were:

- 14 projects that were completed under-budget (by between 0.15 and 28.21 per cent). However, in some instances the project cost more than DOTARS' records suggested, due to inadequacies in the financial acquittal process;[693] and
- 33 projects that were completed over-budget (by amounts ranging from as little as two per cent to as much as 177 per cent).

Figure 5:5.6

Actual cost outcomes for sampled construction projects



Source: ANAO analysis of DOTARS records.

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[693] For example, RP02039 Baralaba Swimming Pool Complex was completed with one of the largest decreases in reported costs from the sampled construction projects. The expected total cost of the project at the time the Funding Agreement was signed was $451 292 plus GST. The final acquittal provided to, and accepted by, DOTARS for the project showed that the project had been completed at a cost of $332 337, or 26.4 per cent less than planned. However, at the time the acquittal was provided to DOTARS, there was an amount of $163 118 that was outstanding to be paid for the project, although the project had been physically completed. In this respect, the project was actually completed at a total cost of $492 181 including GST. This means that the project was completed almost breaking even, with total project revenues exceeding projects costs by just $266.16, or 0.05 per cent. DOTARS made the final payment of Regional Partnerships funds based on the acquittal that showed the project was completed significantly under-budget. DOTARS records did not indicate that it had been advised of, or had sought to obtain, the final actual costs of the project.

5:5.60 In dollar terms, the total expected costs of the 47 completed construction projects was $21 087 050. ANAO's analysis of DOTARS' records shows that these 47 projects were completed at an aggregate total cost of $27 772 752, or 32 per cent more than planned. As a result, while Regional Partnerships was expected to fund 29 per cent of the aggregate project costs for these projects, Regional Partnerships funding actually comprised just 22 per cent of the total project funding, with the differences needing to be funded by the applicants or other project funding partners. However, in such circumstances, there is also a risk that the Commonwealth may be approached to assist fund the additional costs. ANAO's case study of RP00769 Redevelopment of Geraldton Surf Life Saving Club provides an example of such a project.[694]

5:5.61 As noted above, as the project scope and design detail is refined and the uncertainty reduced, it is reasonable to expect that project cost estimates become more accurate and variation from actual project costs should diminish over time.[695] However, the various versions of the DOTARS Internal Procedures Manual in place during the first four years of operation of the Regional Partnerships Programme did not provide guidance to assessors on how they were to identify and evaluate the risk of project cost increases, or the effect of any such increases on the assessment of applications against the Programme criteria.[696] Assessment procedures also did not require assessors to examine the extent to which the project budget made provision for cost increases (such as through contingency allowances) or, in the absence of such allowances, how the applicant proposed to fund any increased costs.

5:5.62 In this context, it is common practice in project management to include contingency reserves in project cost baselines.[697] However, there were few instances in project assessments examined by ANAO in which DOTARS sought to identify whether or not the applicant had included adequate

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[694] In respect to that project, in October 2006, the proponent sought a 20 per cent increase in the amount of Regional Partnerships funding, advising DOTARS that it was totally reliant on increased Regional Partnerships Programme funding to assist meet increased construction costs. The extra funding was approved by the Ministerial Committee in May 2007.

[695] See, for example, Evans & Peck, *A Review of the reliability of Cost Estimation of QDMR Projects funded under AusLink*, report commissioned by DOTARS, 27 June 2007, p. 10.

[696] This was reflected, for example, in 114 (78 per cent) of the 147 construction projects in ANAO's sample for which project viability was assigned a rating by DOTARS being rated as presenting a low project viability risk.

[697] Project Management Institute, *A Guide to the Project Management Book of Knowledge*, Third Edition, 2004, p. 166.

contingency allowances in the project cost estimate.[698] Further, where such allowances were identified as being included, assessment procedures varied considerably. For example, in its assessment of RP00106 Vision 2025: The Sunshine Coast Economic Development and Integrated Transport Strategy project DOTARS advised the then Parliamentary Secretary that:

> The proponent has provided a revised budget with Regional Partnerships funding directly solely to the Economic Development Strategy. The proponent estimates that this will cost $197 275 (GST exclusive) with an amount of $4 750 set aside for contingencies. Regional Partnerships does not fund contingencies and the recommended amount has been reduced to reflect this.

5:5.63 By way of comparison, for some other projects, DOTARS has identified and endorsed the inclusion of contingency allowances in the project budget.

Addressing cost over-runs

5:5.64 Issues relating to the management of potential and actual cost increases in relation to construction projects were raised in a number of ANAO project case studies provided to DOTARS over the course of the audit. In April 2007, DOTARS sought the Ministerial Committee's agreement to a number of changes to improve and streamline the administration of the Regional Partnerships Programme. The department advised the Ministerial Committee that:

> Since the establishment of Regional Partnerships, the Building Price Index (BPI) for construction projects (National figures) has increased from approximately 142 to 199, a rise of 57 index points. This equates to a quarterly upward movement in the BPI of over 4 index points per quarter or 17.5 per cent per year.
>
> Due to the rapid escalation of costs for construction projects, applicants need to either make up the shortfall in available funding or submit a variation for additional Regional Partnerships funding in order to progress construction related projects.

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[698] In one example, RP02074 Expansion of Seed and Grain Breeding, Marketing, Processing and Fractionation at Keith project (which is examined in an ANAO case study), the department did not examine whether the applicant had included any contingency in its project costings. No advice to this effect was included in the department's advice to the Ministerial Committee recommending that funding not be approved, in order to fully inform the Ministers' discretionary decision. This was despite the applicant having provided the department with documentation from its bank which indicated that any finance that may be approved for the project (but which had yet to be applied for) would be subject to a number of conditions, including that the bank would require the applicant's shareholders to maintain an additional contingency fund of $250 000.

Construction cost escalation also has potential to impact on the pattern and amount of expenditure of the entire Regional Partnerships programme.

5:5.65 The four options to address this issue provided to the Ministerial Committee for its consideration are represented in Table 5:5.3.

Table 5:5.3

Options considered for addressing escalation costs for construction projects: April 2007

Option	DOTARS analysis
Escalation costs continue to be considered through variation requests to Ministers as they arise.	This option maintains the status quo for managing cost escalations. It often results in lengthy delays as advice is prepared and the request is circulated amongst members of the Ministerial Committee. Delays can be experienced prior to the project commencing if costs increase during the period the application is finalised, assessment occurs and a Funding Agreement is put in place with the applicant. The time frame for this process is currently up to 24 weeks for projects over $25 000. Delays of 6-8 weeks can also be experienced during the implementation of a project, impacting on the recipient retaining construction workers and completing projects on time.
Variations to the amount of approved grants, for construction projects, be permitted (without reference back to the Ministerial Committee) provided that those variations are within cost increases specified in the Rawlinsons Australian Construction Handbook.	**This option is recommended** as it allows projects to proceed with a degree of certainty while ensuring cost escalations are not overstated. This option would require partner sources to also contribute to cost escalations as any Regional Partnerships increased contributions would be proportional to overall building cost increases.
The applicant be required to submit (as part of their application) detailed costings that include an allowance for contingencies of up to 30 per cent and these costs be considered as part of the assessment process. Any further adjustment of funding would need to be considered by the Ministerial Committee.	This option places the onus on the applicant to undertake more detailed costings prior to submitting an application and it means that statutory approvals and development applications would need to be already granted. This option would provide the best estimate of project costs. However, potential applicants are likely to resist this policy as they would need to outlay significant costs (for example, for detailed costings and statutory approvals (including development approvals)) before knowing if their request for Regional Partnerships funding was approved.
The applicant funds all escalation costs from other sources.	This option does not allow for variations to the approved project grant. This policy may encourage the applicants to inflate costs in their bid or delay project completion if an alternative funding source cannot be obtained.

Source: DOTARS advice to the Ministerial Committee April 2007.

5:5.66 The Ministerial Committee did not agree to DOTARS' request that a process be established within the department for approving (within approved limits) requests from project proponents to increase funding to cover increases in construction costs over the life of a project that are within increases in the building cost indices specified in the Rawlinsons Australian Construction Handbook. In this respect, the chapter on Application Assessment included in a draft revised Internal Procedures Manual provided to ANAO by DOTARS in June 2007 included advice to assessors that:

> When assessing quotes relating to construction project cost estimates the Assessor should ensure that the estimate includes any projected and/or unforseen cost increases likely to occur between obtaining the estimate and commencement of construction. Assessors may wish to refer to *'Rawlinson Construction Industry Guide'* a hardcopy *[of which]* is held by the Section Head.

5:5.67 The revised Manual also now requires assessors to consider if:

- a detailed and specific project plan has been developed; and
- the project has an appropriately costed budget.

5:5.68 In October 2007, DOTARS advised ANAO that, in addition to risk assessment training provided to Regional Partnerships project assessors in June and July 2007, the department was currently developing a further training package for assessment staff that would include the scrutiny of application budgets, which was scheduled to commence in late October 2007. The department further advised that the revised Regional Partnerships application form now asks applicants to identify how they will manage any cost over-runs and who will fund them.

Recommendation No.20

5:5.69 ANAO *recommends* that the Department of Transport and Regional Services improve its assessment of project budgets supporting applications for Regional Partnerships funding by:

(a) promulgating guidance to potential applicants on the cost estimating standards they are expected to meet, together with the circumstances (if any) in which contingency allowances and/or escalation factors may be included; and

(b) developing and delivering training for project assessors that specifically addresses the scrutiny of cost estimates prepared by applicants.

DOTARS response

5:5.70 Agreed.

Ian McPhee
Auditor-General

Canberra ACT
15 November 2007

Appendix 1: DOTARS Formal Comments on the Proposed Report

The Secretary of the Department of Transport and Regional Services (DOTARS) provides the following response to the audit findings.

DOTARS welcomes recognition by the Australian National Audit Office (ANAO) of the comprehensive administrative changes made to the Regional Partnerships programme. DoTARS has been and is committed to continuously improving the programme's administration.

The audit, which commenced in February 2006, covered the period 1 July 2003 to 30 June 2006, during which 1 413 project proposals were considered by Ministerial decision-makers. Of these, 983 were approved. The average value of the approved projects was $183 652. Sixty percent were less than $100 000. It is now over 1 year since the end of the period under review by the ANAO and the operation of the Regional Partnerships programme has altered considerably in that time.

DOTARS commenced implementation of a comprehensive suite of reforms to the programme following the announcement by the Government on 15 November 2005 of major changes to the operation of the programme. These changes included establishment of a Ministerial Committee to make funding decisions, centralisation of project assessment and updated programme guidelines to provide greater clarity and transparency.

These initiatives have been subsequently supported by the development of a more detailed and prescriptive internal procedures manual to assist over 130 staff involved in administering the programme in 12 different geographic locations. As well DoTARS has provided extensive training for staff, developed practical measures such as checklists, templates, a reporting pack, a more detailed funding agreement and introduced case management for more complex projects.

To improve accountability, staff managing funding agreements are now required to comply with new sign-off processes, report on the performance of individual projects and participate in periodic external project management audits. DOTARS notes that ANAO has found that these reforms are consistent with stronger governance arrangements. (Volume 1—paragraph 46).

DOTARS is continuing to provide staff with assessment and funding agreement management training, is currently developing an online staff training package and an online web based project assessment tool. A checklist for Area Consultative Committees (ACCs) is being prepared to further assist applicants to provide sufficiently detailed information in their applications.

DOTARS notes ANAO's conclusion that the programme is complex to administer (Volume 1—paragraph 41). Between July 2003 and June 2006 DOTARS received 1 800 projects. The number of projects received under the programme is now over 2800. Each project is individually assessed and where projects are approved for funding by Ministers, DOTARS prepares detailed funding agreements, makes payments and monitors over 700 individual projects each year. This involves ongoing review of approximately 1300 milestone reports. As ANAO notes, there are few limits on the types of projects that can be funded through the Regional Partnerships programme. The different characteristics of Regional Partnerships projects and the number and level of sophistication of the funding partners whose contributions must also be monitored will always make the management of risk challenging and while DOTARS is committed to continually enhancing programme administration, it cannot completely eliminate risk.

DOTARS supports measures recommended by the ANAO to strengthen programme administration, including those listed in the Report's 20 recommendations. These measures will continue to increase the level of scrutiny for each project and add to the significant administration that DOTARS already has in place for this programme.

Having regard to the average size of Regional Partnerships projects, DOTARS considers that there would be benefit in the provision of whole of government guidance to agencies concerning appropriate benchmarks for the cost of administering programmes, relative to project risk.

Two recommendations (5 and 7) made by the ANAO relate to practices which the ANAO seeks to promote on a whole of government basis. DOTARS welcomes ANAO's guidance on these matters but again considers that there would be merit in the provision of whole of government guidance on issues such as:

- the nature and extent of the 'reasonable inquiries' which Ministers should undertake to satisfy themselves that expenditure which they propose to approve will be in accordance with the policies of the Commonwealth and make efficient and effective use of public money, particularly where the department has not recommended a grant for funding or has not undertaken an assessment (Volume 2—paragraph 2:2.14 refers); and

- the requirement for departments to advise Ministers when Ministers approve expenditure for election commitments concerning the extent to which the election commitment is likely to make efficient and effective use of public money (Volume 2—paragraph 2:4.28 refers).

DOTARS accepts the Report's recommendations with the qualification that one recommendation (2) is made to the Department of Finance and Administration and implementation of recommendations 10, 12 and 14 will require the agreement of the Government and the Ministerial Committee. DOTARS is actively implementing the remaining recommendations.

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