

The Auditor-General  
Audit Report No.30 2009–10  
Performance Audit

# **Management of the Strategic Regional Program/Off-Network Program**

**Department of Infrastructure, Transport, Regional  
Development and Local Government**

© Commonwealth  
of Australia 2010

ISSN 1036-7632

ISBN 0 642 81120 2

## **COPYRIGHT INFORMATION**

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth.

Requests and inquiries concerning reproduction and rights should be addressed to:

Commonwealth Copyright  
Administration  
Attorney-General's Department  
3-5 National Circuit  
Barton ACT 2600

<http://www.ag.gov.au/cca>



Canberra ACT  
22 April 2010

Dear Mr President  
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Department of Infrastructure, Transport, Regional Development and Local Government in accordance with the authority contained in the *Auditor-General Act 1997*.

Pursuant to *Senate Standing Order 166* relating to the presentation of documents when the Senate is not sitting, I present the report of this audit and the accompanying brochure. The report is titled *Management of the Strategic Regional Program/Off-Network Program*.

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

Yours sincerely

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

Ian McPhee  
Auditor-General

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

## AUDITING FOR AUSTRALIA

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

For further information contact:  
**The Publications Manager**  
**Australian National Audit Office**  
**GPO Box 707**  
**Canberra ACT 2601**

**Telephone:** (02) 6203 7505  
**Fax:** (02) 6203 7519  
**Email:** [webmaster@anao.gov.au](mailto:webmaster@anao.gov.au)

ANAO audit reports and information about the ANAO are available at our internet address:

<http://www.anao.gov.au>

---

### Audit Team

Tina Long  
Erica Sekendy  
Amanda Ronald  
Brian Boyd

# Contents

Abbreviations and Glossary .....	8
<b>Summary and Recommendations .....</b>	<b>11</b>
Summary .....	13
Introduction .....	13
Audit objectives and scope .....	20
Overall audit conclusion .....	21
Key findings by chapter .....	24
Agency response .....	38
Recommendations .....	40
<b>Audit Findings and Conclusions .....</b>	<b>45</b>
1. Introduction .....	47
Development of a strategic regional funding program .....	47
Funding rounds .....	51
Audit objective and approach .....	54
2. Decision-making framework .....	56
Introduction .....	56
Commonwealth financial framework .....	57
Program-specific legislation .....	59
Decision-making flexibility .....	62
Interaction of the financial framework approval processes with those of the land transport legislation .....	70
Application of current policy framework for Australian Government grant programs .....	88
3. Conduct of the 2006 application and assessment processes .....	96
Introduction .....	96
The application process .....	98
Consequences of the Large/Small Project distinction .....	104
Assessment of program eligibility .....	108
Assessment of eligible applications .....	116
4. 2006 funding round recommendations and decisions .....	130
Background .....	130
Advice provided to the Minister on Large Projects .....	132
Advice provided to the Minister on Small Projects .....	137
Funding decisions .....	138
Distribution of funding .....	142
Project results .....	145
5. 2007 funding rounds .....	155
Introduction .....	155

Identification of projects available to be funded in 2007 .....	157
2007 Budget round funding decisions.....	175
Project results .....	190
Projects funded in 2007 from savings and reallocations within the Program .....	200
<b>6. Election Commitments .....</b>	<b>211</b>
Introduction .....	211
Origin of 2004 election commitments.....	213
Origin of 2007 election commitments.....	220
Assessment of 2004 election commitment projects.....	222
Assessment of 2007 election commitments.....	238
<b>Series Titles.....</b>	<b>249</b>
<b>Current Better Practice Guides .....</b>	<b>252</b>

## Tables

Table S 1	Application approvals by political party: 2006 funding decisions .....	30
Table S 2	Departmental rating of unsuccessful applications to the 2006 round against the Program Guidelines.....	32
Table 2.1	Legislative matters the Minister may consider in determining whether it is appropriate to approve a project under Part 6 of the land transport legislation.....	68
Table 2.2	Case study of projects not subject to departmental assessment that were identified for re-allocation of funds in 2007.....	76
Table 2.3	Case study illustrating the approach taken to identifying the appropriateness under the land transport legislation of a project submitted for funding by way of letter to a local Member and not assessed by the department .....	82
Table 2.4	Bucketts Way Road Rehabilitation Projects: Gloucester Shire Council.....	86
Table 3.1	Case study illustrating the difficulties faced for potential applicants by the timing of the 2006 call for applications .....	101
Table 3.2	Case study of the effect of defining Small Projects based on the amount of funding being sought rather than the scope of overall works proposed .....	108
Table 3.3	Eligibility criteria set out in the 2006 Strategic Regional Program Guidelines.....	111
Table 3.4	Assessment Criteria: March 2006 Program Guidelines .....	118
Table 4.1	Project assessments and 2006 funding decisions: Large Projects.....	139
Table 4.2	Project assessments and 2006 funding decisions: Small Projects ..	141
Table 4.3	Application approvals by political party: 2006 funding decisions .....	144
Table 4.4	Case study of cost and timeline risk assessments based on inadequate information not being supported by achieved outcomes .....	150

Table 5.1	Departmental rating of unsuccessful applications to the 2006 round against the Program Guidelines .....	159
Table 5.2	Project applications provided to Members of Parliament: May 2007 .....	167
Table 5.3	Case study of a project applied for and approved in 2007 that had a close relationship with an application rated <i>Low</i> in the 2006 assessment .....	172
Table 5.4	Case study of a project for which the project parameters were amended to enable the funding offer to be accepted by 30 June 2007 .....	182

## Figures

Figure 3.1	Small Project applications: Strategic Regional Program funding sought .....	105
Figure 4.1	Maria River Road Link Project, Kempsey Shire Council, NSW.....	152
Figure 5.1	Gembrook—Tonimbuk Road Section 1, Cardinia Shire Council, Victoria.....	194
Figure 5.2	Gembrook—Tonimbuk Road Section 2, Cardinia Shire Council, Victoria.....	196
Figure 6.1	Main Road 301 between Clarence Town and Dungog and Main Road 101 Upgrade, Dungog Shire Council, NSW .....	234
Figure 6.2	Main Road 301 between Clarence Town and Dungog and Main Road 101 Upgrade, Dungog Shire Council, NSW—unapproved scope reduction .....	237

# Abbreviations and Glossary

---

AEC	Australian Electoral Commission
ALGA	Australian Local Government Association
ANAO	Australian National Audit Office
AusLink Act	<i>AusLink (National Land Transport) Act 2005</i> , which was amended to create the <i>Nation Building Program (National Land Transport) Act 2009</i> .
CGGs	<i>Commonwealth Grant Guidelines: Policies and Principles for Grants Administration</i> (Commonwealth Grant Guidelines).
DITRD LG	Department of Infrastructure, Transport, Regional Development and Local Government (formerly the Department of Transport and Regional Services).
DOTARS	Former Department of Transport and Regional Services (now the Department of Infrastructure, Transport, Regional Development and Local Government).
Finance	Department of Finance and Deregulation
FFR Act	<i>Federal Financial Relations Act 2009</i>
Green Paper	Green Paper, <i>AusLink: Towards the National Land Transport Plan</i> , released in November 2002.
Land transport legislation	A collective reference to the legislation under which the grants examined by this audit were made: Part 6 of the then <i>Auslink (National Land Transport) Act 2005</i> and Part 6 of the current <i>Nation Building Program (National Land Transport) Act 2009</i> .
Large Projects	Projects for which more than \$1 million in Strategic Regional Program funding was sought through an application submitted in response to the March 2006 call for applications.
LGA	Local Government Authority
MoU	Memorandum of Understanding between the Commonwealth and a State or Territory for the implementation of the Nation Building Program, including projects to be funded through the <i>Nation Building Program (National Land Transport) Act 2009</i> and, where relevant, the Building Australia Fund (under the <i>Nation-Building Funds Act 2008</i> ). As the MoUs are National Partnership Agreements, payments made under them are National Partnership Payments made for the purposes of the <i>Federal Financial Relations Act 2009</i> .
MYEFO	Mid Year Economic and Fiscal Outlook
Nation Building Program Act	<i>Nation Building Program (National Land Transport) Act 2009</i> , created through amendment of the <i>AusLink (National Land Transport) Act 2005</i> .
Off-Network Program	Projects funded under Part 6 of the Nation Building Program Act, titled <i>Nation Building Program Off-Network Projects</i> , which was created through amendment of the AusLink Act. 'Off-Network Projects' are projects that are not on the National Land Transport Network determined under Part 2 of the land transport legislation and funded through Part 3 of the legislation. Part 6 of the AusLink Act similarly stipulated that projects were not eligible as Strategic Regional Projects if they were located on the National Network.
PPR	Project Proposal Report



R2R	Roads to Recovery Program
RTA	New South Wales Roads and Traffic Authority
Small Projects	Projects for which up to \$1 million in Strategic Regional Program funding was sought through an application submitted in response to the March 2006 call for applications.
Strategic Regional Program	Projects funded under Part 6 <i>AusLink Strategic Regional Projects</i> of the <i>AusLink (National Land Transport) Act 2005</i> (amended to become the <i>Nation Building Program (National Land Transport) Act 2009</i> ).
the department	This is a reference, as relevant, to the current Department of Infrastructure, Transport, Regional Development and Local Government (in relation to administration of the program from November 2007) or the former Department of Transport and Regional Services (in relation to administration of the program until November 2007).
Transitional Act	<i>AusLink (National Land Transport—Consequential and Transitional Provisions) Act 2005</i>
White Paper	AusLink White Paper, <i>AusLink: Building Our National Land Transport Future</i> , released in June 2004.



# **Summary and Recommendations**



# Summary

---

## Introduction

1. The Strategic Regional Program (now Off-Network Program) is a grant program administered by the Department of Infrastructure, Transport, Regional Development and Local Government (DITRD LG, formerly the Department of Transport and Regional Services or DOTARS) (the department).<sup>1</sup>

2. The Strategic Regional Program was foreshadowed in the then Government's November 2002 Green Paper, titled *AusLink: Towards the National Land Transport Plan*. The Green Paper outlined that, in addition to funds for the renewal of local roads continuing to be provided under the Roads to Recovery Program (which involved direct allocation to all Local Government Authorities (LGAs) based upon an identified formula), funds would be earmarked for regional transport infrastructure. The Green Paper canvassed options for allocating and administering funding for regional projects, and stated that:

Some element of competition could apply in allocating funding to the best projects and criteria will be developed to evaluate projects for the purposes of allocating funding...All projects nominated for *AusLink* funding will be subjected to standard evaluation criteria.<sup>2</sup>

3. The June 2004 White Paper, titled *AusLink: Building Our National Land Transport Future*, was announced as being the then Government's formal policy statement on land transport.<sup>3</sup> The earmarking of funds for strategic regional projects was examined further in the White Paper, which announced that:

The Government has decided that regional funding under *AusLink* will provide a balance between the immediate need to continue reducing the backlog of local road works and a forward-looking agenda to build sustainable regional economies and communities.<sup>4</sup>

---

<sup>1</sup> In this report, ANAO refers to both the then DOTARS and the current DITRD LG as 'the department'.

<sup>2</sup> Department of Transport and Regional Services, *AusLink Green Paper, AusLink: Towards the National Land Transport Plan*, November 2002, p. 72.

<sup>3</sup> Department of Transport and Regional Services, *AusLink White Paper, AusLink: Building our National Transport Future*, June 2004, Ministerial Foreword.

<sup>4</sup> *ibid.*, p. 81.

4. To give effect to this approach, the White Paper outlined that there would be two regional funding streams: one based on the existing Roads to Recovery Program and another directed at strategic regional transport infrastructure priorities. The key features for the latter funding stream, which became known as the Strategic Regional Program, were:

- funding of \$400 million over four years for land transport projects of regional economic and social significance; and
- operation as a merit-based grant program. All funding was to be competitively allocated based on applications received from LGAs, with regional groupings of councils to perform a significant role in developing and contributing to project proposals.

5. Shortly after the calling of the 2004 Federal election, the Australian Local Government Association (ALGA) wrote to the then Minister for Transport and Regional Services:

- advising the then Minister of ‘substantial disquiet among many local councils’ over the proposal for a single strategic regional project funding pool and seeking an ‘early, positive statement confirming state-based allocations’; and
- requesting confirmation that all LGAs, including metropolitan councils, would be able to bid for strategic regional funding.

6. During the 2004 election campaign, the Coalition announced some changes in the policy approach to funding for strategic regional projects outlined in the White Paper. Specifically, the Coalition’s policy titled *Building Our National Transport Future* announced on 15 September 2004 outlined that:

- the Roads to Recovery direct-allocation component would be restored to \$1.2 billion over four years (from the \$800 million that had been proposed in the White Paper); and
- an additional \$150 million was to be provided over five years (2004-05 to 2008-09), of which \$120 million was to be for local road projects of strategic regional importance and \$30 million for local roads in the unincorporated areas.

7. To date, five funding rounds have occurred under Part 6 of the land transport legislation, being the Part established to give effect to the Strategic Regional Program. The first four rounds (conducted by the former Government) have been completed, but the consideration of projects for

funding by the current Government under the fifth round had yet to be completed when audit fieldwork concluded in November 2009. Funding decisions in respect to the first four rounds were made by the then Minister for Local Government, Territories and Roads. Since November 2007, funding decisions have been made by the Minister for Infrastructure, Transport, Regional Development and Local Government.

### **First funding round: 2004**

8. Of the \$120 million announced in the September 2004 election policy document as being available under the competitive strategic component, 78 per cent (\$94.085 million) was the subject of Coalition funding announcements made prior to and during the 2004 election campaign in respect of 23 projects. The 22 commitments<sup>5</sup> advised to the then Minister for Local Government, Territories and Roads by the department following the election totalled \$93.185 million, leaving less than \$27 million available to be competitively allocated. Funding of \$93.06 million was ultimately approved between 21 October 2005 and 26 February 2007 for 21 of the election commitments.<sup>6</sup>

### **Second funding round: public call for applications in 2006**

9. In light of the policy undertakings made in the June 2004 White Paper policy statement and the September 2004 election policy, a number of LGAs submitted proposals after the 2004 Federal election seeking funding for various projects. The then Government advised these LGAs that:

- the 2004 election commitment projects had accelerated implementation of the Strategic Regional Program; and
- as the remaining \$27 million in Program funding did not become available until 2007-08 and 2008-09, competitive bids would not be called for until 2006-07.

---

<sup>5</sup> The department did not identify a commitment that had been announced during the 2004 election campaign by the sitting Liberal Member for McMillan that \$900 000 would be provided from the Strategic Regional Program to seal an 18 kilometre section of Grand Ridge Road between Korumburra-Warragul Road and Mirboo North. An application to fund this project was later submitted during the second funding round in 2006, and was approved for funding by the then Minister for Local Government, Territories and Roads.

<sup>6</sup> In one instance, no Program funding was approved because an actual project was unable to be identified in respect to a commitment of \$125 000 announced in respect to Bribie Island Road in Queensland.

10. Ministers were also advised that the \$27 million was insufficient to implement a funding program that was consistent with the White Paper commitments to competitively allocate funding based on applications received from LGAs.<sup>7</sup> As a result, an additional \$100 million in Program funding was announced in November 2005, for allocation through a competitive funding round to be conducted in 2006.

11. Applications were called in March 2006, with Program Guidelines being issued at this time together with an electronic funding application form. Applications closed on 1 May 2006. In total, the department accepted for assessment 495 applications seeking \$1.04 billion in Strategic Regional Program funding towards projects with a total estimated cost of \$2.02 billion. These applications were assessed in stages, with separate assessment procedures being developed for 'Large Projects' (those seeking more than \$1 million in Program funding) and 'Small Projects' (applications seeking up to \$1 million in Program funding).

12. Funding decisions were made by the then Minister for Local Government, Territories and Roads between 2 November and 19 December 2006. In total, 86 projects were approved for a total of \$125.69 million in Program funding.

### **Third funding round: 2007 Budget measure**

13. The May 2007 Budget announced:

- further additional funding for the Strategic Regional Program of \$250 million in the then current 2006-07 financial year so as to allow more funding offers to be made in response to applications received from Councils<sup>8</sup>; and
- further funding of \$300 million over five years to 2013-2014 as part of a second five-year AusLink program (known as AusLink 2). The \$300 million in Strategic Regional Program funding was to be allocated

---

<sup>7</sup> For example, by November 2005, the department had received 27 unsolicited submissions seeking a total of \$242 million in Australian Government funding.

<sup>8</sup> Mark Vaile, Deputy Prime Minister and Minister for Transport and Regional Services and Jim Lloyd, Minister for Local Government, Territories and Roads, *Regional Roads: Building for the Future*, Joint Media Release 009/TRS Budget, 8 May 2007.



in two \$150 million application rounds to be held in 2009–10 and 2011–12.<sup>9</sup>

14. Between 11 May 2007 and 21 June 2007, funding offers were made in relation to 102 projects, with offers being accepted in respect to 101 projects involving an aggregate Program contribution of \$257.33 million. The majority of projects funded through the 2007 Budget round were selected from those that had been unsuccessful in the 2006 application round. The remaining projects approved for funding related either to unsolicited proposals received after the 2006 round had closed to applications or to a small number of Councils that were provided with the opportunity in May 2007 to apply to their local Federal Member for funding. Payment to the funding recipient of the full amount of each grant by 30 June 2007 was a key element of the 2007 Budget round (for other rounds, payments were to be made in accordance with project progress).

#### **Fourth funding round: projects funded in 2007 from savings and reallocations within the Program**

15. Between July and August 2007, \$1.77 million in Program funding was approved by the then Minister in relation to three regional transport projects. These projects were funded from project savings and re-allocations within the Program. None of the projects had been the subject of an application to the 2006 competitive funding round, and only one of the three had been the subject of a subsequent request from the relevant Council for Strategic Regional Program funding. The other two projects originated, respectively, from a recently made application to the National Black Spot Program and funding that had been announced as having been secured by the local Federal Member.

#### **Fifth funding round: 2007 election commitments**

16. During 2007, the then-Opposition had announced a number of land transport election commitments including for various projects not located on the National Land Transport Network defined under the *AusLink (National*

---

<sup>9</sup> *Building a Strong Future for Regional Australia 2007-2008*, Statement by the Honourable Mark Vaile MP Deputy Prime Minister, Minister for Transport and Regional Services, Leader of the Nationals; The Honourable Jim Lloyd MP Minister for Local Government, Territories and Roads; The Honourable De-Anne Kelly MP Parliamentary Secretary to the Deputy Prime Minister and Minister for Transport and Regional Services, 8 May 2007, p. 95.

*Land Transport) Act 2005* (AusLink Act) (as it then was). Some of the 2007 election commitments have been, or are expected to be, funded as Off-Network Projects under Part 6 of the *Nation Building Program (National Land Transport) Act 2009* (Nation Building Program Act) (as the land transport legislation is now called—see further at paragraph 20).

17. With the change of government and as all remaining Program funding to 2013-2014 has been allocated to 2007 election commitments, there are no longer any plans to run a further two application rounds in 2009-10 and 2011-12 (see paragraph 13).

## **Legislative framework**

18. Commonwealth grant programs involve the expenditure of public money 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. This framework includes requirements governing the process by which decisions are made about whether public money should be spent on individual grants, including those made under the Strategic Regional Program/Off-Network Program.

19. The Strategic Regional Program was established under Part 6 of the AusLink Act, which had given formal effect to the AusLink White Paper. Under the AusLink Act, Part 6 was titled *AusLink Strategic Regional Projects* (which is referred to in this report as the Strategic Regional Program).

20. In June 2009, the focus of Part 6 of the legislation on funding projects that are of strategic regional importance was removed by the current Government. The AusLink Act was renamed the Nation Building Program Act, with Part 6 being amended to replace all references to ‘Strategic Regional Projects’ with ‘Nation Building Program Off-Network Projects’ (which is referred to in this report as the Off-Network Program) and to remove other regional references. The purpose of that amendment was:

to make it clear that this Part can be used to approve funding for projects which are off the National Land Transport Network (off-network projects) and

which are not in regional areas of Australia (as well as off-network projects that are in regional areas).<sup>10</sup>

21. The two Acts are collectively referred to in this report as the land transport legislation.

22. The land transport legislation stipulates certain requirements in relation to the approval of projects (eligibility and appropriateness under the legislation, set out in non-exclusive terms), which lead to a Project Approval Instrument that has to be executed before a project is considered to have been formally approved by the Minister for the purposes of the land transport legislation. In practice, the administration of the Strategic Regional Program (and subsequent Off-Network Program) has involved the responsible Minister approving a spending proposal to award a grant to a particular project for the purposes of the FMA Act, as well as signing an Approval Instrument under the land transport legislation. These approvals often occurred separately, particularly for projects approved in the 2006 and 2007 funding rounds.

23. With effect from 1 July 2009, the legislative and policy framework applying to the assessment and approval of grants has been significantly enhanced.<sup>11</sup> While not affecting a Minister's right to decide on the allocation of grants:

- unless specifically agreed otherwise by Government, competitive, merit-based selection processes are to be used, based upon clearly defined and published selection criteria; and
- as Ministers are now required to seek advice before approving a grant, agencies therefore are required to make recommendations about its merits under the guidelines applying to the program, and Ministers must record the substantive reasons for each funding decision.

<sup>10</sup> Explanatory Memorandum, *Nation Building Program (National Land Transport) Amendment Bill 2009*, circulated by authority of the Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon. Anthony Albanese MP.

<sup>11</sup> A number of mandatory aspects of the new framework were initially introduced as policy requirements by the Government on 16 January 2009 through the issuing of Finance Minister's Instructions (in the form of Estimates Memorandum 2009/09 *Changes to Grant Approval and Reporting Requirements*), and were given statutory authority from July 2009 through the issuing of the *Commonwealth Grant Guidelines: Policies and Principles for Grants Administration* (Commonwealth Grant Guidelines or CCGs) under FMA Regulation 7A, as well as through amendment of the FMA Regulations.

24. The fifth funding round will be completed under the new financial framework, whereas the earlier funding rounds were conducted in full under the prior, less robust framework.

## Audit objectives and scope

25. Recent performance audit priority for the Australian National Audit Office (ANAO) in the Infrastructure, Transport, Regional Development and Local Government portfolio has been directed at the administration of funding for land transport. Accordingly, this audit is one of a series ANAO is undertaking of land transport funding programs. Four audits have already been completed, namely:

- ANAO Audit Report No. 31 2005–06, *Roads to Recovery*;
- ANAO Audit Report No. 45 2006–07, *The National Black Spot Program*;
- ANAO Audit Report No. 22 2007–08, *Administration of Grants to the Australian Rail Track Corporation*; and
- ANAO Audit Report No. 29 2008–09, *Delivery of Projects on the AusLink National Network*.

26. In addition to this audit of the Strategic Regional Program/Off-Network Program, another audit currently underway is examining the management of the current Roads to Recovery Program (including a follow-up of implementation of agreed recommendations made by ANAO in its audit of the initial Roads to Recovery Program), and is expected to be tabled in 2009–10.

27. This audit was conducted under section 18 of the *Auditor-General Act 1997*. The objective of the audit was to assess whether the Strategic Regional Program/Off-Network Program has been effectively administered. The scope of the audit included each of the five funding rounds, and also considered the ongoing operation of the Program in the context of the July 2009 changes to the framework for grants administration. The proposed report of the audit was issued in March 2010 to DITRD LG. Extracts of the proposed report were provided to the former Minister that had responsibility for funding decisions under the Strategic Regional Program and to the Department of Finance and Deregulation (Finance) (in respect to the application of the new grants administration framework).

## Overall audit conclusion

28. The Strategic Regional Program was introduced as the result of a policy development process that included the November 2002 AusLink Green Paper and culminated in the June 2004 AusLink White Paper. The policy decision to introduce the Program was intended to address the risk that projects might be of regional significance and value but may not be competitive against larger projects on the National Network, and may also not be funded through Roads to Recovery allocations to LGAs, particularly where the project crosses LGA boundaries.

29. The AusLink White Paper outlined that candidate projects for strategic regional funding would be assessed on merit primarily against the AusLink objective of promoting sustainable national and regional economic growth and connectivity. However, the land transport legislation was drafted in a way that does not require the allocation of available funds to projects competing on merit in response to an open application process. Nor does the legislation set out criteria that must be applied in deciding whether it is appropriate to sign a Project Approval Instrument for a project under Part 6 of the legislation. Nevertheless, the only Guidelines that have been published in respect to the Program stated that funding would be allocated through a competitive, merit based process based on criteria set out in those Guidelines.

30. The administration of the Program has been affected by decisions of both the former and current governments to use the available Program funding to meet the cost of election commitments. Whilst a relatively common approach, the experience with this Program highlights that delivering upon election commitments through existing grant programs introduces a range of program management issues. In this case, adopting such an approach meant that stakeholder expectations were unlikely to be met given the formal policy document that led to the establishment of Part 6 of the land transport legislation had outlined that all funding would be competitively allocated based on applications received from LGAs, with regional groupings of councils to perform a significant role in developing and contributing to project proposals. In addition:

- the use of the Program to fund commitments from the 2004 election delayed from 2004 to 2006 the calling of applications for Program funding, and required \$100 million in additional Program funding to be allocated in order that a sufficient pool of funds would be available to support a credible call for applications (in March 2006); and

- directing all of the available funding to commitments announced during the 2007 election resulted in the cancellation of further application rounds that were to have been held in 2009–10 and 2011–12. This has meant that, unless further funding is allocated to the Program, land transport projects of strategic regional significance will need to be considered for funding through other programs.

31. Most of the funding rounds examined by ANAO did not relate to election commitments. Rather, all of the projects funded in 2006 (the second funding round under the Program) and most of the projects funded in 2007 (the third and fourth funding rounds) were drawn from the applications submitted to the March 2006 application round.

32. A common feature of the second, third and fourth rounds was that funding decisions were not demonstrably focused on approving those projects assessed as best meeting published eligibility and assessment criteria. For example, 65 per cent of projects approved for funding in those rounds by the then Minister had either not been assessed against the published Program Guidelines; had been assessed as being ineligible under the Guidelines; or had not been assessed as meeting the relevant criteria to a high degree.<sup>12</sup> Further, the department did not make any formal recommendations as to which projects should be funded and which should not be funded, based on the outcome of its assessment process.

33. The reasons for approving grants for projects that the department had rated poorly against the published selection criteria, or which had not been assessed by the department, were not documented by the relevant Minister. Nor did the then Minister record the reasons for approving funding for some highly rated eligible applications, but not for others (whilst also approving funding for other projects that had been rated less favourably). In this context, the distribution of funding in these rounds predominantly favoured electorates held by the then Coalition Government. These circumstances leave those funding decisions open to the interpretation that they had been made for political reasons and not on the merits of the project.

34. Under the financial framework in place until July 2009, documenting reasons for decisions was recognised as a sound practice, but was not a

---

<sup>12</sup> This included 60 projects rated overall as *Medium*. Of these, 37 (62 per cent) were assessed as not meeting or barely meeting at least one criterion.

requirement. As indicated above, since 1 July 2009, approvers (including Ministers where they perform this role) are required to record the substantive reasons for approving grant funding and the basis on which he or she is satisfied that a proposed grant satisfies the statutory requirements for approving the expenditure of public money.<sup>13</sup> The associated promulgation in July 2009 of the *Commonwealth Grant Guidelines: Policies and Principles for Grants Administration* (Commonwealth Grant Guidelines or CCGs) was aimed at improving the transparency and accountability of grants decision-making processes. Agencies are expected to transition existing grant programs to be consistent with the CCGs.

35. While not affecting a Minister's right to decide on the allocation of grants, the enhanced framework promotes greater transparency and accountability for funding decisions.<sup>14</sup> However, based on advice provided to ANAO by the department in April 2010, 34 of 45 projects within the Off-Network Program (those being delivered by the States) have been excluded from the coverage of the CCGs by virtue of the administrative arrangements that have been adopted. For the remaining 11 projects (being delivered by local government), program guidelines have not been published (notwithstanding the requirement under the CCGs that this be done).

36. Irrespective of whether the payment arrangements are captured by the CCGs, the essential principles applying to sound grants administration (as reflected by the Finance Minister's statement in issuing the CCGs<sup>15</sup>) include transparent and accountable decision-making processes. The legislative provisions governing Ministerial approval of funding for Off-Network projects were developed prior to the new grants policy framework being adopted. The Infrastructure Minister's ability to fulfil his/her obligations under the land transport legislation in a way that accords with the principles underpinning

---

<sup>13</sup> Finance Minister's Instructions issued in January 2009 (see footnote 11) introduced a requirement to record the basis for approval where a grant was approved in the responsible Minister's own electorate or contrary to departmental advice. Since 1 July 2009, approvers (including Ministers where they perform this role) are required by FMA Regulation 12 to record the substantive reasons for approving all grants funding, having regard for the requirements of FMA Regulation 9. The CCGs further require that Ministers report annually to the Finance Minister all decisions to approve a grant that the relevant agency had recommended be rejected, and the basis for those decisions, as well as all decisions to approve a grant in the Minister's own electorate.

<sup>14</sup> ANAO Audit Report No. 21 2009-10, *Administration of the Water Smart Australia Program*, Canberra, 4 February 2010, p. 17.

<sup>15</sup> See Department of Finance and Deregulation, *Commonwealth Grant Guidelines: Policies and Principles for Grants Administration*, Financial Management Guidance No. 23, July 2009, Foreword.

the new grants policy framework would be supported by the documenting of the criteria that will be applied in determining whether a project will be funded. This could be achieved either through legislative amendment or the publication of program guidelines (as previously occurred in 2006).

37. Whilst existing Program funding has been fully committed and there are no current plans to call for further applications for funding under Part 6 of the land transport legislation, the experience with the Program offers useful lessons for the future administration of grants in respect to road projects, and more broadly. In this light, ANAO has made seven recommendations aimed at:

- promoting transparent and accountable decision-making in a way that is consistent with the principles underpinning the new grants policy framework;
- as key elements of any future grant programs, encouraging the adoption of:
  - open application approaches and competitive allocation of funding in accordance with published criteria;
  - more robust departmental practices for assessing the merits of candidate projects for funding; and
  - arrangements that seek to link grant payments to project needs, and better manage the risk of any advance payments; and
- the development of Program funding arrangements that assist to promote the delivery of Program outcomes by providing options to effectively manage cost pressures on projects previously approved for funding.

## Key findings by chapter

### Decision-making framework (Chapter 2)

38. The Strategic Regional Program/Off-Network Program operates under land transport legislation (Part 6 of the AusLink Act, renamed the Nation Building Program Act in June 2009). The land transport legislation stipulates certain requirements in relation to the approval of projects (eligibility and appropriateness considerations under the legislation, set out in non-exclusive terms), which lead to a Project Approval Instrument that has to be executed



before a project is considered to have been formally approved by the Minister for the purposes of Part 6 of the land transport legislation.

39. In addition to the land transport legislation, as the Strategic Regional Program/Off-Network Program involve the expenditure of public money, it is thus also subject to applicable financial management legislation. Specifically, the FMA Act provides a framework for the proper management of public money and public property. This framework includes requirements governing the process by which decisions are made about whether public money should be spent on individual grants, including those made under the Programs examined in this audit.

40. For its part, the financial management framework stipulates certain requirements in relation to the approval of spending proposals (such as proposals relating to the making of individual grants). In practice, the administration of the Strategic Regional Program (and subsequent Off-Network Program) has involved the responsible Minister approving a spending proposal to award a grant to a particular project for the purposes of the FMA Act, as well as signing an Approval Instrument under the land transport legislation. These approvals often occurred separately, particularly for projects approved in the 2006 and 2007 funding rounds. There was also often a significant delay between the FMA Act approval being given and the grant being announced, and the relevant Minister subsequently formally signing a Project Approval Instrument for the purposes of the land transport legislation. In addition, in a number of instances, the approach taken to the preparation of Project Approval Instruments in relation to projects that the Minister had already approved for the purposes of the financial management legislation failed to demonstrate the merit of projects in terms of the land transport legislation.<sup>16</sup>

---

<sup>16</sup> For example, a number of projects that the department had assessed as not meeting particular criteria in the context of the 2006 assessment process were nevertheless approved for funding by the then Minister. The department subsequently prepared a Project Approval Instrument in relation to those projects for signature by the Minister for the purposes of the land transport legislation. Despite the department's earlier assessment concluding that a project did not satisfy a criterion that reflected one of the matters listed in section 55 of the land transport legislation as being matters the Minister may consider in determining that it is appropriate to approve the project under Part 6 of the legislation (such as improving safety of transport operations or improving access for regional communities to services and employment), ANAO observed a number of instances in which the subsequent Project Approval Instrument was prepared on the basis that the project did, in fact, satisfy that criterion. This approach was taken despite the department having received no advice from the then Minister in relation to the basis on which the Minister had approved the project for funding, and without any attempt being made to reconcile the two assessments or otherwise drawing the issue to the attention of the then Minister.

41. With effect from 1 July 2009, a new statutory and policy framework was introduced by the Government to improve the transparency and accountability of decision-making processes for grants.<sup>17</sup> The new framework involves:

- the continued application of the general requirements set out in the financial management framework regulating the expenditure of public money, which reflect sound principles that have evolved over time;
- new specific requirements under the financial management framework in relation to grants administration, in particular a requirement for decision-makers to record the substantive reasons for their approval of a grant, in addition to the factual terms of the approval; and
- the issuing of the CGGs, under the *Financial Management and Accountability Regulations 1997*.

42. Transparent and accountable administration of the current Off-Network Program in a way that accords with the principles underpinning the new grants policy framework can be achieved through legislative amendment or by the provisions of the land transport legislation being supplemented with published guidelines that include straightforward, easily understood eligibility and assessment criteria. This is because:

- under the CGGs:
  - unless specifically agreed otherwise, competitive, merit-based selection processes should be used, based upon clearly defined selection criteria;
  - eligibility and assessment criteria should be set out in the grant guidelines, together with the circumstances (if any) in which the eligibility and assessment criteria may be waived or amended; and
  - criteria for eligibility should be straightforward, easily understood and effectively communicated to potential applicants; whereas
- the land transport legislation was drafted in a way that does not require the allocation of available funds to projects competing on merit in

---

<sup>17</sup> See footnote 11.

response to an open application process.<sup>18</sup> Nor does the land transport legislation set out criteria that must be applied in deciding whether it is appropriate to sign a Project Approval Instrument.<sup>19</sup>

43. The audit also points to the challenges that arise in circumstances where some program payments are subject to the CGGs but others are not. In this case, despite being governed by a single Part of the land transport legislation and being identified for funding through a similar process, the Off-Network Program now consists of a mixture of grants that are subject to the CGGs (being those made for projects delivered by LGAs) and grants that are not subject to the CGGs (being those made for projects delivered by States). This is because Stated-delivered projects are no longer governed by individual Funding Agreements<sup>20</sup>, but are instead included (along with National Network projects that will be considered for approval under Part 3 of the land transport legislation) within National Partnership Agreements developed shortly before the CGGs were introduced.<sup>21</sup> Nevertheless, whilst not mandatory in respect to State-delivered projects being funded under the Off-Network Program,

<sup>18</sup> Rather, section 56 of the land transport legislation provides that the Minister may invite submissions from anybody the Minister thinks appropriate and by any method the Minister thinks appropriate but that the Minister can also approve a project even if it was not submitted in response to an invitation. This provision was included in the AusLink Act of 2005 (which pre-dated the CGGs) and was duplicated in the Nation Building Program Act created in 2009 through amendment of the AusLink Act.

<sup>19</sup> The land transport legislation stipulates that a Minister may approve a project under Part 6 of the legislation if, and only if, the Minister is satisfied that the project is eligible for approval and the Minister considers that it is appropriate to approve the project. Whilst the legislation identifies matters the Minister may have regard to when deciding whether it is appropriate to sign a Project Approval Instrument, the Minister is not required to have regard to these factors and may have regard to other, unspecified, factors.

<sup>20</sup> Prior to 2009, all projects approved for funding under Part 6 of the land transport legislation were covered by Funding Agreements. This included projects where funding was being paid direct to State road authorities for work on a State road, as well as projects on a State road being delivered by a State authority but where the Funding Agreement was signed with an LGA.

<sup>21</sup> FMA Regulation 3A(2) stipulates a number of arrangements that are taken not to be grants and to which, therefore, the CGGs do not apply. These include a payment to a State or Territory that is made for the purposes of the *Federal Financial Relations Act 2009* (FFR Act), including National Partnership Payments made under National Partnership Agreements. National Partnership Agreements are made between the Commonwealth and the States and Territories as part of the revised approach to Commonwealth/State financial relations introduced through the Intergovernmental Agreement on Federal Financial Relations and the FFR Act. For administrative reasons, National Partnership Agreements on implementation of the Nation Building Program now include not only National Network projects that may be funded under Part 3 of the land transport legislation (as was the case under the previous AusLink Bilateral Agreements), but also Off-Network Projects approved under Part 6 of the legislation that are to be delivered by the State or Territory. Funding for projects listed in each Agreement will be provided through National Partnership Payments. The Nation Building Program National Partnership Agreements were finalised in advance of the CGGs being promulgated, meaning the adverse effect of including Part 6 projects within their coverage would not have been known to the department at the time the Agreements were drafted.

consideration of the principles outlined in the CCGs may assist to promote transparency and accountability in the effective administration of such projects.

44. Against this background, the report of the 2008 *Strategic Review of the Administration of Australian Government Grant Programs*, which led to the introduction of the CCGs, identified that some programs had been delivered through grants so as to avoid the application of the Commonwealth Procurement Guidelines.<sup>22</sup> It may be contrary to the policy intent that underpinned development of a new grants administration framework for the payment arrangements adopted to result in that framework not being applied to transactions that are, in substance, a grant made for a specified project or activity and subject to terms and conditions imposed by the Commonwealth. In this respect, Finance has issued guidance to agencies on how to distinguish between a grant and other common types of financial arrangements. In the interests of achieving greater commonality in the treatment of like payments, there would be benefit in Finance also considering, and, as appropriate, advising the Finance Minister on, the merits of re-examining the interaction of the new grants framework and these types of grant payments to States and Territories made through mechanisms established under the *Federal Financial Relations Act 2009*.

### **2006 application and assessment process (Chapter 3)**

45. The 2006 application round commenced in March 2006, with a public call for applications for the \$127 million in available funding. Potential applicants were advised that projects would be assessed on their competitive merits against standard criteria, with funding to be allocated accordingly. However, little time was allowed for potential applicants to develop project proposals and/or to confirm the availability or otherwise of partner funding, with applications closing on 1 May 2006.<sup>23</sup>

46. Whilst projects were assessed by the department against published criteria, assessment procedures were not sufficiently robust. The department assigned individual qualitative ratings to eligible applications that proceeded

---

<sup>22</sup> Mr Peter Grant PSM, *Strategic Review of the Administration of Australian Government Grant Programs*, 31 July 2008, p. 3.

<sup>23</sup> The 2006 Program Guidelines had required partner funding of a minimum of 50 per cent of total project costs for projects on State roads and a minimum of 30 per cent where more than \$1 million in Program funding was being sought and the project was on a local road.

to the detailed assessment stage (*High*, *Medium* or *Low*), but the rating methodology adopted did not provide for clarity and transparency in the assessment and selection process. The ratings of *Low*, *Medium* and *High* were not defined, including in terms of the assessed level of achievement of program objectives and value for money they represented. In particular, the rating scale adopted made no provision for the department to give a clear assessment that an application was not suitable for funding due to not meeting the published criteria. As a result, the rating of *Low* could be misinterpreted as indicating a project satisfied the criteria set out in the published Program Guidelines, but was not preferred; whereas, in fact, 98 per cent of the projects that proceeded to a detailed assessment and were assigned an overall rating of *Low* had been assessed as failing to meet and/or barely meeting<sup>24</sup> one or more of the assessment criteria (with the remainder being assessed as representing high engineering risks).

47. In addition to shortcomings in the assessment of applications, the department did not identify a ranked order of eligible applications based on their comparative merits. Nor did the department make any recommendations in respect to whether individual projects should be funded or not, based on their relative merits when compared against competing eligible projects. Rather, information was provided to the then Minister on each project assessed as eligible, including those that had been rated as *Low* against the requirements of the Program Guidelines.

## 2006 funding round (Chapter 4)

48. The second funding round was concluded in November and December 2006 when the then Minister approved funding for 86 projects with a total Program contribution of \$125.69 million. Without documenting his reasons<sup>25</sup>, the then Minister approved some (but not all) projects rated *High* by the

<sup>24</sup> For each of the individual assessment criteria, projects were assessed as either: 'Strongly meets', 'Generally meets', 'Barely meets' or 'Did not meet'. The basis on which the rating assigned to a project in respect to each criterion would be determined was not documented. Nor did the department document the rationale for applying the separate ratings of 'did not meet' and 'barely met' for individual criteria, or the difference this assessment was intended to convey in terms of the application's capacity to contribute to achieving the program's objectives.

<sup>25</sup> As noted at paragraph 34, until January 2009, documenting reasons for decisions was recognised as a sound practice, but was not a requirement. As further noted at footnote 13, in January 2009 the Government introduced a requirement for the basis of approval to be recorded where a grant was approved in the responsible Minister's own electorate or contrary to departmental advice, with this being a statutory requirement under FMA Regulation 12 since 1 July 2009 for all grant approvals.

department; some (but not all) projects rated *Medium*; and some projects rated *Low*. In this context, applications that involved a project affecting a Coalition-held electorate had a significantly higher rate of approval in 2006 than those affecting an ALP-held electorate or an electorate held by an Independent Member (see Table S 1).

**Table S 1**

**Application approvals by political party: 2006 funding decisions**

Party holding the electorate in which the project was located	Number of applications	Number of projects approved: 2006	Approval rate
Coalition	367	76	20.7%
ALP	97	11	11.3%
Independent	64	6	9.4%
<b>Total</b>	<b>528<sup>1</sup></b>	<b>93<sup>2</sup></b>	<b>17.6%</b>
Notes: 1. Total is greater than the 495 applications received due to 20 projects being located in both a Coalition held electorate and an electorate held by the ALP and a further 13 projects being located in both a Coalition held electorate and an electorate held by an Independent. 2. Total is greater than the 86 projects approved in 2006 due to three projects being located in both a Coalition held electorate and an electorate held by the ALP and a further four projects being located in both a Coalition held electorate and an electorate held by an Independent.			

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

## 2007 funding rounds (Chapter 5)

49. The third funding round was made possible by the May 2007 Federal Budget including additional Program funding of \$250 million so as to enable more offers to be made in response to applications received in 2006. This reflected the fact that the 2006 application round was significantly over-subscribed, with the 495 applications accepted for assessment seeking funding totaling \$1.04 billion, compared to the \$127 million in available Strategic Regional Program funding.

50. There was no public announcement associated with the 2007 Budget that there would be opportunities to submit new applications for the additional funding now available (which was approximately twice as much as had been available in the 2006 funding round). This was notwithstanding that some Councils that had sought funding after the 2006 application round had closed had been advised that opportunities to apply would be made available should additional funding be made available to the Program. However, at least five Members of Parliament from marginal Liberal Party-held electorates were

provided with an opportunity to obtain letters from one or more LGAs in their electorate seeking Program funding for nominated projects. Those letters were then provided directly to the then Minister for Local Government, Territories and Roads by the relevant Member.

51. In addition, in response to a request from the Office of the then Minister for Transport and Regional Services, prior to the May 2007 Budget announcement of additional Strategic Regional Program funding, the department had provided the then Minister's Office with information on various projects that had not been funded in the 2006 round. This information comprised:

- a list of applications that had been assessed as ineligible for funding in the 2006 round;
- a list of all eligible but unsuccessful applications to the 2006 round (irrespective of whether they had been rated as meeting the published criteria to a high standard or not); and
- information in relation to two projects that had been the subject of unsolicited proposals for funding that had been received some months after the 2006 application round had closed.

52. In total, 409 projects (83 per cent of all applications) were not approved for funding in the 2006 round announced in December 2006. Of those, 32 had been rated overall by the department as meeting the Program criteria to a *High* degree, with a further 39 unsuccessful projects having been rated overall as *Medium*. However, the significant majority of unsuccessful applications (338 projects or 83 per cent of unsuccessful applications) had been either assessed as ineligible or rated *Low* when considered against the criteria set out in the Program Guidelines (see Table S 2).

**Table S 2**

**Departmental rating of unsuccessful applications to the 2006 round against the Program Guidelines**

2006 assessment rating against the Program Guidelines		Number of unsuccessful applications	Total unsuccessful applications
<i>High</i>		32	32
<i>Medium</i>		39	39
<i>Low</i>	Rated <i>Low</i> at the Initial Review assessment stage, and therefore did not proceed to the detailed assessment stage.	55	308
	Rating reduced to <i>Low</i> due to failure to meet Guidelines requirement for written confirmation of stakeholder funding.	12	
	Rated <i>Low</i> based on detailed assessment against the criteria set out in the Guidelines due to not meeting and/or barely meeting one or more criteria, and/or representing a high cost or timeline risk.	241	
<i>Ineligible</i>		30	30
Total unsuccessful applications to 2006 application round			409

Source: ANAO analysis of departmental data.

53. Applications that do not satisfy the assessment criteria set out in the Program Guidelines published for a grant program, or in respect of which no inquiries have been undertaken, are unlikely to meet the requirements under FMA Regulation 9<sup>26</sup> for approving the expenditure of public money. It is also important for agencies and Ministers to remain cognisant of the fact that, given the requirements of the financial framework, only eligible applications that demonstrably provide value for the public money involved should be approved, even if there are insufficient applications of adequate quality on hand to exhaust the available appropriation within a required timeframe.

54. In that context, collectively, the unsuccessful applications to the 2006 round that had been rated as either *High* or *Medium* against the Program Guidelines had sought total Program funding of \$186.2 million, compared to the \$250 million in additional funding that was available to be allocated in the 2007 Budget round. However, there was no documented consideration as to

<sup>26</sup> And, from 1 July 2009, the CGGs.



whether it would be likely to be in accordance with the Minister's obligations under the FMA Regulations to consider the approval of funding for applications that:

- had been assessed as ineligible under the published criteria and, therefore, had not been further assessed by the department;
- had been rated *Low* following the Initial Review of Large Projects (those seeking more than \$1 million in Program funding) and, therefore, had not been subjected to a detailed assessment against the published criteria and were not to have been considered further for funding;
- had been assessed against the published criteria and rated *Low* overall (including failing to meet one or more criteria); and/or
- related to unsolicited proposals that had not been assessed by the department against any criteria.<sup>27</sup>

55. There was also no documented consideration, either in providing the lists of available projects or subsequent to the department being advised of the projects that were to be offered funding, of the risks involved in considering for funding applications that had been submitted 12 months earlier<sup>28</sup> without any steps having been taken to determine whether:

- the project had already proceeded such that Australian Government funding was no longer needed; and/or
- the project scope, timeframe and/or total estimated project cost had changed.

56. A list of approved projects was provided to the department by the then Minister for Local Government, Territories and Roads on 10 May 2007 (and a

---

<sup>27</sup> By way of comparison, a more robust approach was taken to the departmental response to a September 2007 request from the Office of the then Minister for Local Government, Territories and Roads for an electronic copy of all unfunded Strategic Regional Program applications received in the context of the 2006 funding round and of the one page summary of the departmental assessment prepared in relation to each project. Specifically, the department advised the then Minister that projects that did not satisfy the eligibility criteria or could not demonstrate 'even on initial review' that they would likely meet the assessment criteria would be unlikely to satisfy the test under FMA Regulation 9 of making efficient and effective use of public money and therefore details of these projects were not provided to the then Minister.

<sup>28</sup> As noted, applications to the 2006 funding round were invited on 2 March 2006 and closed on 1 May 2006. In addition, due to the short timeframe provided for the development of applications, many proposals submitted to the 2006 round had been based on studies or estimates that had been undertaken some months (or, in some cases, years) prior to the application process.

revised list was provided on 11 May 2007). These lists included 12 projects that had been the subject of May 2007 letters from the relevant LGA to their local Federal Liberal Member seeking funding for the project. None of the 12 projects had been submitted for funding as part of the 2006 public call for applications.<sup>29</sup> In addition, none of the projects was subject to a departmental assessment against the published Program criteria, either before or subsequent to the then Minister advising the department that he had decided that funding offers should be made in respect to those projects.

57. The then Minister had decided that funding offers should be made in relation to 89 projects for total Program funding of \$249.85 million. Offers were required to be accepted by 15 June 2007 (one month after being made)—this timeframe was driven by a desire to pay all approved funding to the respective funding recipients by 30 June 2007.<sup>30</sup> With one exception, each recipient of a letter of offer accepted the offer. The \$10 million in funding from the offer that was unable to be accepted by the due date<sup>31</sup> was combined with a residual amount that had not been included in the original 2007 funding offers; residual funds available for the 2006 application round that had not been allocated in that round; and an amount relating to a 2004 election commitment to a project that had not proceeded, and used by the then Minister on 21 June 2007 to approve funding offers in respect to a further 13 projects that had been unsuccessful in the 2006 round. Each of these second tranche offers was accepted. The reasons for selecting the projects approved for funding by the then Minister in May and June 2007 were not documented.

58. A feature<sup>32</sup> of the 2007 Budget round was that 47 per cent of the projects approved for funding (48 projects) had either not been an application to the

---

<sup>29</sup> In two instances, the relevant LGA had not submitted any applications for funding in response to the 2006 public invitation for project applications.

<sup>30</sup> Proponents that had projects approved for funding as part of the 2007 Budget round were offered more attractive funding terms and conditions than those proponents who had successfully applied for funding in 2006. In particular, they were provided with their funds in advance in full and had more time to deliver the projects.

<sup>31</sup> This project was one of the 12 projects that had been approved on the basis of a May 2007 letter from the relevant LGA to their local Member of Parliament (see paragraph 56).

<sup>32</sup> A further feature of this round was the payment of the full amount of each grant by 30 June 2007. There was no documented risk assessment and cost benefit analysis that considered whether designing the round for payment in advance of need was warranted or not. This was compounded by the department's administration of the Funding Agreement progress reporting and monitoring arrangements not being intensified to reflect the heightened risks from advance payment. In addition, there have been some significant delays in the application of the prepaid funding to the construction of the relevant road project.

2006 round and had not been assessed by the department; had been assessed as ineligible in the 2006 round and, therefore, had not been further assessed against the Guidelines; or had been rated *Low* against the published criteria in the 2006 round. Such projects predominantly related to a Coalition-held electorate.

59. In addition, later in 2007, the then Minister approved \$1.77 million in funding in relation to a further three projects located in Coalition-held seats. This represented the fourth funding round. None of the approved projects had been the subject of an application to the 2006 competitive funding round, and only one of the three had been the subject of a subsequent request from the relevant Council for Strategic Regional Program funding.<sup>33</sup> Again, the reasons for approving funding for these projects were not documented.

#### *Program savings and program contingency arrangements*

60. The importance of decisions to fund infrastructure projects being based on robust cost estimates is well recognised. Nevertheless, the application of cost estimating standards is not able to eliminate cost overruns. Accordingly, the management of cost overruns, as well as any savings for individual projects, is an important aspect of the overall management of infrastructure funding programs.

61. For the Strategic Regional Program, the approach taken has been to allocate almost all of the available Program funding to individual projects with no contingency reserve retained. Further, in circumstances where individual projects have been delivered at a lower cost than had been expected, or funding offers have not been accepted, the project 'savings' have been used to either fund additional projects or the funding recipient has been permitted to increase the scope of an existing project. For example, in the former respect, the \$1.77 million fourth funding round in 2007 was made possible by project savings and re-allocations within the Program.

62. As a result of this approach, there has been no flexibility available to consider the merits of requests from funding recipients for a Commonwealth contribution toward increased project costs. In circumstances where additional funding has not been available to funding recipients from non-Australian

---

<sup>33</sup> The other two projects originated, respectively, from a recently made application to the National Black Spot Program and funding that had been announced as having been secured by the local Federal Member.

Government sources, project scopes have been reduced and, for some projects, the future of the project has been placed in jeopardy.

## **Election commitments (Chapter 6)**

63. The first and fifth funding rounds involved funding being directed to projects announced as part of the 2004 and 2007 Federal election campaigns respectively, as follows:

- 2004 election commitment announcements in respect to 23 projects consumed 78 per cent (\$94.085 million) of the \$120 million available under the Strategic Regional Program (as announced in the 15 September 2004 Coalition election policy—see paragraph 5). A direct consequence of this was that a public call for applications was delayed until March 2006, after an additional \$100 million in Program funding was provided in November 2005; and
- as all remaining Program funding to 2013-2014 has been allocated to 2007 election commitments, there are no longer any plans to run a further two application rounds in 2009-10 and 2011-12 and, unless further funding is allocated to the Program, land transport projects of strategic regional significance have to be funded through other programs.<sup>34</sup>

64. 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.<sup>35</sup> The importance to governments of delivering upon their election commitments is recognised. Nevertheless, the use of public money to fulfil such commitments may only occur in accordance

---

<sup>34</sup> For example, the 2008-09 application round for the Regional and Local Community Infrastructure Program—Strategic Projects was used to provide \$18 million to Etheridge Shire Council in Queensland to fund the replacement of the Einasleigh River Bridge. The application to that Program had been assessed as non-compliant as the published Program Guidelines stated that funding would not be available for transport infrastructure. However, funding was approved by the Government because floods had: 'demonstrated again the vulnerability of the communities served by this bridge.'

<sup>35</sup> ANAO Audit Report No. 14 2007–08, *Performance Audit of the Regional Partnerships Program*, Volume 1—Summary and Recommendations, Canberra, 15 November 2007, p. 55.

with the financial framework that governs the expenditure of funds from the Consolidated Revenue Fund.<sup>36</sup>

65. Like all proposals to spend public money, the financial framework requires that any decision to approve expenditure to satisfy an election commitment must be undertaken in a manner that considers whether the proposed expenditure represents efficient, effective and ethical use of public money that is not inconsistent with the policies of the Commonwealth.<sup>37</sup> In this respect, a number of improvements were made to the documented processes by which information was to be obtained and assessed to inform funding decisions in relation to the 2007 election commitments funded under the Program compared with those adopted for the 2004 election commitments. This was important given that there have been long delays in the implementation of a significant proportion of the 2004 election commitment projects, together with increases in the cost of some projects and/or reductions in the scope of the works being undertaken. However, there was not a consistent standard adopted with regard to implementing the improved procedures documented for 2007 election commitments.

66. Since July 2009, the administration of the fifth funding round has been taking place within the context of the enhanced grants legislative and policy framework. However:

- grants made under Part 6 of the land transport legislation satisfy the definition of a grant set out in the FMA Regulations and are not an arrangement that is stipulated as being taken not to be a grant. Accordingly, all such grants may be expected to be subject to the requirements of the CGGs. Nevertheless, since 2009, the process adopted in respect to administering payments for State-delivered Off-Network projects has meant that LGA-delivered projects approved under Part 6 of the land transport legislation are covered by the CGGs whereas State-delivered projects are not<sup>38</sup>; and

---

<sup>36</sup> *ibid.*

<sup>37</sup> *ibid.*, p. 56.

<sup>38</sup> See footnote 21.

- the CCGs outline an expectation that grant program guidelines will be made publicly available, and will effectively communicate to potential funding recipients all criteria that will be applied in the selection of funded projects. In these respects:
  - whilst the guidelines for State-delivered Off-Network projects (in the form of Notes on Administration) are publicly available, the guidelines that apply where proponents are LGAs have not been published; and
  - because the Nation Building Program Act sets out eligibility and appropriateness factors in non-exclusive terms, the practice of Guidelines referencing the provisions of the Act alone will not satisfy the requirement of the CCGs that all eligibility and assessment criteria be clearly articulated and be made available to potential funding recipients. Rather, transparent and accountable administration of the Off-Network Program in a way that accords with the principles underpinning the new grants policy framework will require the provisions of the Act to be supplemented with published guidelines that include straightforward, easily understood eligibility and assessment criteria.

## Agency response

67. As noted, the proposed report of the audit was issued in March 2010 to DITRDLG, with extracts of the proposed report being provided to the former Minister that had responsibility for funding decisions under the Strategic Regional Program and Finance. Comments received from Finance have been reflected in the audit report. DITRDLG provided the following formal comments:

The two programs covered in this report are the Strategic Regional Program and the Off-Network Program. The Strategic Regional Program ended in 2009 and therefore a number of the recommendations in this audit that would apply to the program will not be actioned. The Off-Network Program is not currently application based and program funding has already been fully allocated. The Department acknowledges that the principles of all audit recommendations and the Commonwealth Grant Guidelines (CCGs) apply to programs within the portfolio.

The Department agrees with five of the seven recommendations and agrees in principle to the remaining two recommendations but notes that these two recommendations do not apply to the Off-Network Program.

The Department acknowledges ANAO's recognition in the Report of the wide ranging administrative improvements the Department has put in place over the past 18 months to enhance oversight of the implementation of Off-Network Program/Strategic Regional Program projects. The Department is committed to continuous improvement of its administration of the Government's land transport infrastructure investment program.

The Department will work to ensure that delivery of the Government's land transport infrastructure investment programs continues to meet policy and legislative requirements as well as its accountability responsibilities. This will be achieved through continual review and improvement of the regulatory, contractual and operational oversight processes, while at the same time ensuring that projects are managed and resources allocated in accordance with the appropriate strategies to mitigate risk to the Commonwealth.

# Recommendations

---

*Set out below are ANAO's recommendations and DITRDLG's abbreviated responses. More detailed responses are shown in the body of the report immediately after each recommendation.*

## **Recommendation No.1**

### **Paragraph 2.88**

ANAO *recommends* that, consistent with recent changes to the financial management framework aimed at improving the transparency and accountability of decision-making processes for the awarding of grants, the Department of Infrastructure, Transport, Regional Development and Local Government examine and advise Ministers on options for enhancing and/or supplementing the existing provisions of Part 6 of the *Nation Building Program (National Land Transport) Act 2009* in order to provide certainty and public disclosure of the criteria that will be applied in determining whether it is appropriate for a project to be funded under that Part of the legislation.

**DITRDLG response:** Agree.

## **Recommendation No.2**

### **Paragraph 3.22**

ANAO *recommends* that, for future application-based grant programs, the Department of Infrastructure, Transport, Regional Development and Local Government assess and advise decision-makers on application timetables that maximise, to the extent practicable, the opportunity for potential applicants to access the program and provide sufficient time for robust applications to be developed and submitted.

**DITRDLG response:** Agree in principle.



**Recommendation  
No.3**

**Paragraph 3.83**

ANAO *recommends* that the Department of Infrastructure, Transport, Regional Development and Local Government:

- (a) for any future grant programs, develop assessment procedures that are consistent with the approved Program Guidelines; and
- (b) prior to making recommendations to Ministers in respect to funding of regional road projects, analyse each candidate project's economic costs and benefits, monetising social and environmental impacts where possible.

**DITRD LG response:** Agree.

**Recommendation  
No.4**

**Paragraph 4.70**

ANAO *recommends* that the Department of Infrastructure, Transport, Regional Development and Local Government provide a feedback loop for departmental assessment practices by compiling and reporting performance information on the extent to which projects have been or are being completed in accordance with the timeline, scope and estimate relied upon when decisions are made to award Australian Government funding to projects.

**DITRD LG response:** Agree.

**Recommendation  
No.5**

**Paragraph 5.43**

ANAO *recommends* that, in circumstances where the funding made available to a grant program is increased substantially, the Department of Infrastructure, Transport, Regional Development and Local Government seek to promote value for money, probity and accountability by:

- (a) where new applications are to be considered, advising relevant decision-makers on ways to provide equitable access to the additional funding through the open and transparent communication of the opportunity to access the funding; and
- (b) where it is proposed to consider for funding applications previously received, ensuring that the Program Guidelines permit this to occur and, if they do, support appropriately informed decision-making by providing applicants with the opportunity to advise whether they wish to continue with the application and, if so, whether they wish to change or update any details.

**DITRD LG response:** Agree in principle.

**Recommendation  
No.6**

**Paragraph 5.105**

ANAO *recommends* that the Department of Infrastructure, Transport, Regional Development and Local Government promote value for money and better manage risks in grant programs where it is proposed to make substantial payments of grant funding upon signing of the Funding Agreement by:

- (a) explicitly identifying through the project proposal and assessment processes the extent to which proponents require early payment of grant funds in order to progress the project;
- (b) undertaking, and advising decision-makers of the results of analysis of the risks, costs and benefits of payments being made in advance of project needs; and
- (c) tailoring progress reporting and other grant monitoring arrangements to reflect the heightened risks from advance payments.

**DITRDLG response:** Agree.

**Recommendation  
No.7**

**Paragraph 5.136**

ANAO *recommends* that, recognising the likelihood that project out-turn costs for infrastructure projects will differ from the estimate on which funding was approved, the Department of Infrastructure, Transport, Regional Development and Local Government advise decision-makers on:

- (a) the merits of not fully allocating available Program funding so as to provide a contingency reserve that would be available to assist manage cost pressures on projects that have previously been approved for funding based on their merit in achieving Program objectives; and
- (b) processes for re-allocating any savings realised on individual projects.

**DITRDLG response:** Agree.



## **Audit Findings and Conclusions**



# 1. Introduction

---

*This chapter outlines the background to the audit and describes the audit objectives and approach.*

## Development of a strategic regional funding program

**1.1** The Roads to Recovery Program (R2R) commenced in early 2001 as a single \$1.2 billion intervention over four years to address the concern that local government road infrastructure was near the end of its economic life and its replacement was beyond the capacity of local government.<sup>39</sup> The focus of the R2R program is the renewal of local roads to meet social and economic needs, with funding being allocated directly to all Local Government Authorities (LGAs) based on an identified formula.<sup>40</sup> The initial R2R program operated between 2000-01 and 2004-05.

**1.2** In its November 2002 Green Paper, *AusLink: Towards the National Land Transport Plan*, the then Government foreshadowed that, in addition to funds for the renewal of local roads continuing to be provided under a new R2R Program, funds would be earmarked for regional transport infrastructure.<sup>41</sup> The Green Paper canvassed options for allocating and administering funding for regional projects, and stated that:

Some element of competition could apply in allocating funding to the best projects and criteria will be developed to evaluate projects for the purposes of allocating funding...All projects nominated for *AusLink* funding will be subjected to standard evaluation criteria.<sup>42</sup>

**1.3** The Green Paper outlined that the earmarked regional component would be examined further in the context of the AusLink White Paper. The White Paper, titled *AusLink: Building Our National Land Transport Future*, was published in June 2004 and announced as being the then Government's formal

---

<sup>39</sup> ANAO Audit Report No. 31 2005–06, *Roads to Recovery*, Canberra, 1 March 2006, p. 16.

<sup>40</sup> *Roads to Recovery Program Annual Report 2003-2004*, p.1.

<sup>41</sup> Department of Transport and Regional Services, AusLink Green Paper, *AusLink: Towards the National Land Transport Plan*, November 2002, pp. 61-62.

<sup>42</sup> *ibid.*, p. 72.

policy statement on land transport.<sup>43</sup> Implementation of the White Paper was to commence on 1 July 2004. It announced that:

The Government has decided that regional funding under AusLink will provide a balance between the immediate need to continue reducing the backlog of local road works and a forward-looking agenda to build sustainable regional economies and communities.<sup>44</sup>

**1.4** To give effect to this approach, the White Paper outlined that there would be two regional road funding streams: a new R2R program under which funding would be allocated directly to LGAs on much the same basis as the initial R2R program; and a separate, competitively-based program directed at strategic regional transport infrastructure priorities. The basis for the policy decision to provide AusLink regional road funding through two separate streams as set out in the White Paper was that:

The Government recognises that many land transport infrastructure projects in regional Australia are worthwhile and strategically important. However, it also acknowledges that some projects might not be competitive against major infrastructure projects focusing on the National Network under a single AusLink funding pool approach. These might also be projects that extend beyond the boundaries, interests and financial capabilities of individual councils and would not be funded under a Roads to Recovery programme model.<sup>45</sup>

**1.5** As a result, \$800 million in funding over four years was to be allocated directly to LGAs on a formula basis under the new R2R program, compared to \$1.2 billion under the original R2R program. Of the R2R funding, \$20 million was to be allocated for unincorporated areas. The key features identified for the second funding stream, which became known as the Strategic Regional Program, were:

- funding of \$400 million over four years for land transport projects of regional economic and social significance; and

---

<sup>43</sup> Department of Transport and Regional Services, AusLink White Paper, *AusLink: Building our National Transport Future*, June 2004, Ministerial Foreword.

<sup>44</sup> *ibid.*, p. 81.

<sup>45</sup> *ibid.*, p. 80.



- operation as a merit-based grant program, with all funding to be competitively allocated based on applications received from LGAs.<sup>46</sup>

1.6 The AusLink policy set out in the White Paper was implemented through passage of the *AusLink (National Land Transport) Act 2005* (AusLink Act), which was assented to on 6 July 2005. Parts 3 to 8 of the AusLink Act commenced on 28 July 2005, the date of proclamation by the then Minister for Transport and Regional Services.<sup>47</sup> The principal parts of the AusLink Act were as follows:

- Part 2 relating to the determination of the National Land Transport Network and Part 3 which governs AusLink National Projects on the National Land Transport Network—examined in ANAO Audit Report No. 29 2008–09;
- Part 4 relating to transport development and innovation projects and Part 5 pertaining to funding for land transport research entities—such projects comprised only a small proportion of AusLink funding;
- Part 6 titled *AusLink Strategic Regional Projects* (which is the subject of this audit);
- Part 7 governing the National Black Spot Program—examined in ANAO Audit Report No. 45 2006–07; and
- Part 8 governing the Roads to Recovery Program—the initial \$1.2 billion R2R program, administered under the *Roads to Recovery Act 2000*, was examined in ANAO Audit Report No. 31 2005–06. A performance audit of the AusLink R2R program (\$1.5 billion) presently underway is expected to be completed in 2009–10.

1.7 In June 2009, the AusLink Act was amended and renamed the *Nation Building Program (National Land Transport) Act 2009* (Nation Building Program Act)—the two Acts are collectively referred to in this report as the land

---

<sup>46</sup> *ibid.*, p. xiii.

<sup>47</sup> The *Australian Land Transport Development Act 1988* (ALTD Act), which was the previous primary land transport funding legislation, was effectively superseded by the AusLink Act from this date, with transitional arrangements being put in place through the *AusLink (National Land Transport—Consequential and Transitional Provisions) Act 2005* (Transitional Act). The Transitional Act made provision for the Minister to determine that certain project approvals that had been made under the ALTD Act were to be taken to be approvals made under the relevant provisions of the AusLink Act. On 12 October 2005, the then Minister for Transport and Regional Services made a determination under the Transitional Act in respect of project approvals to be carried over to the AusLink Act.

transport legislation. As part of this legislative process, the focus of Part 6 of the legislation on funding projects of strategic regional importance was removed by the current Government, with all references to 'Strategic Regional Projects' being replaced with 'Nation Building Program Off-Network Projects'. 'Off-Network Projects' are projects that are not on the National Land Transport Network determined under Part 2 of the land transport legislation and funded through Part 3 of the legislation. In this respect, Part 6 of the AusLink Act had similarly stipulated that projects were not eligible for funding as Strategic Regional Projects if they were located on the National Network.

**1.8** The only other substantive amendments were the deletion from section 55 of the legislation of one of the matters that had been listed in the AusLink Act as a matter the Minister may have regard to in deciding whether it was appropriate to approve a project under Part 6, being: '*(b) the extent to which the project is likely to improve a road, railway or inter-modal transfer facility that is regionally significant*', and the removal of the reference to 'regional' industries or communities in two other matters listed in the legislation. 'Regional significance' is no longer identified as a matter the Minister may have regard to in deciding whether it is appropriate to approve a project under Part 6.<sup>48</sup>

**1.9** The purpose of those amendments was:

to make it clear that this Part can be used to approve funding for projects which are off the National Land Transport Network (off-network projects) and which are not in regional areas of Australia (as well as off-network projects that are in regional areas).<sup>49</sup>

**1.10** However, in all other respects, the legislative provisions of Part 6 of the Nation Building Program Act for the Off-Network Program are substantially the same as those included in the AusLink Act for the Strategic Regional Program. This report primarily refers to the Strategic Regional Program, but also identifies those elements of the report that relate specifically to the current Off-Network Program.

---

<sup>48</sup> In September 2008, the Minister for Infrastructure, Transport, Regional Development and Local Government had agreed to a recommendation that the *Funding for road projects other than under the AusLink (National Land Transport) Act 2005* sub-program be incorporated into the *AusLink Strategic Regional* sub-program under Part 6 of the land transport legislation.

<sup>49</sup> Explanatory Memorandum, *Nation Building Program (National Land Transport) Amendment Bill 2009*, circulated by authority of the Minister for Infrastructure, Transport, Regional Development and Local Government, the Honourable Anthony Albanese MP.

## Funding rounds

**1.11** The Strategic Regional Program is a grant program administered by the Department of Infrastructure, Transport, Regional Development and Local Government (DITRDLG, formerly the Department of Transport and Regional Services or DOTARS) (the department).<sup>50</sup>

**1.12** To date, five funding rounds have occurred under Part 6 of the land transport legislation. The first four rounds have been completed, but the consideration of projects for funding under the fifth round had yet to be completed when audit fieldwork concluded in November 2009. Funding decisions in respect to the first four rounds were made by the then Minister for Local Government, Territories and Roads. Since November 2007, funding decisions have been made by the Minister for Infrastructure, Transport, Regional Development and Local Government.

### First funding round: 2004 election commitments

**1.13** Following the foreshadowing of a competitive allocation of \$400 million for strategic regional projects in the June 2004 AusLink White Paper, some LGAs began work to prepare proposals. For example, the Municipal Association of Victoria facilitated the development of groupings of LGAs to identify candidate local road projects.

**1.14** However, during the 2004 election campaign the Coalition announced a revised policy for the funding of strategic regional projects in its *Building Our National Transport Future* policy document issued on 15 September 2004. Under that election policy, funding for the R2R component of AusLink would be restored to \$1.2 billion over four years (all directly allocated to LGAs with none set aside for unincorporated areas). An additional \$150 million was to be provided over five years (2004-05 to 2008-09), of which \$120 million was to be for local road projects of strategic regional importance and \$30 million for local roads in unincorporated areas.

**1.15** Of the \$120 million announced in the September 2004 election policy document as being available under the competitive strategic component, 78 per cent (\$94.085 million) was the subject of Coalition funding

<sup>50</sup> The then Department of Transport and Regional Services (DOTARS) was renamed the Department of Infrastructure, Transport, Regional Development and Local Government (DITRDLG) in the Administrative Arrangements Order established following the change of government at the 2007 Federal election. In this report, ANAO refers to both the then DOTARS and the current DITRDLG as 'the department'.

announcements made prior to and during the 2004 election campaign in respect of 23 projects. However, the 22 commitments advised to the then Minister for Local Government, Territories and Roads by the department following the election totalled \$93.185 million<sup>51</sup>, leaving less than \$27 million available to be competitively allocated. Funding of \$93.06 million was ultimately approved between 21 October 2005 and 26 February 2007 for 21 of the election commitments.<sup>52</sup>

## **Second funding round: public call for applications in 2006**

**1.16** In November 2005, an additional \$100 million was made available to the Strategic Regional Program so as to enable a competitive call for project bids. Applications were called in March 2006, with Program Guidelines being issued at this time, together with an electronic funding application form.

**1.17** Applications closed on 1 May 2006. In total, 495 applications seeking \$1.04 billion in Strategic Regional Program funding towards projects with a total estimated cost of \$2.02 billion were accepted for assessment. These applications were assessed in stages, with separate assessment procedures being developed for 'Large Projects' (those seeking more than \$1 million in Program funding) and 'Small Projects' (applications seeking up to \$1 million in Program funding).

**1.18** Funding decisions were made by the then Minister for Local Government, Territories and Roads between 2 November and 19 December 2006. In total, 86 projects were approved for a total of \$125.69 million in Program funding.

## **Third funding round: 2007 Budget measure**

**1.19** The 2007-08 Federal Budget delivered on 8 May 2007 included additional funding for the Strategic Regional Program of \$250 million in the then current financial year of 2006-07 so as to allow more funding offers to be

---

<sup>51</sup> The department did not identify a commitment that had been announced during the 2004 election campaign by the sitting Liberal Member for McMillan that \$900 000 would be provided from the Strategic Regional Program to seal an 18 kilometre section of Grand Ridge Road between Korumburra-Warragul Road and Mirboo North. An application to fund this project was later submitted during the second funding round in 2006, and was approved for funding by the then Minister for Local Government, Territories and Roads.

<sup>52</sup> In one instance, no Program funding was approved because an actual project was unable to be identified in respect to a commitment of \$125 000 announced in respect to Bribie Island Road in Queensland.

made in response to applications received from councils.<sup>53</sup> Payment to the funding recipients of the full amount of each grant by 30 June 2007 was a key element of the 2007 Budget round.

**1.20** Between 11 May 2007 and 21 June 2007, funding offers were made in relation to 102 projects, with offers being accepted in respect to 101 projects, involving an aggregate Program contribution of \$257.33 million. The majority of projects funded through the 2007 Budget round were selected from those that had been unsuccessful in the 2006 application round. The remaining projects approved for funding related either to unsolicited proposals received after the 2006 round had closed to applications or to a small number of Councils that were provided with the opportunity in May 2007 to apply to their local Federal Member for funding.

**1.21** The *Building a Strong Future for Regional Australia 2007-2008* statement released at the time of the May 2007 Budget also announced an extra \$300 million over five years to 2013-2014 for the Strategic Regional Program as part of a second five-year AusLink program (known as AusLink 2). The \$300 million was to be allocated in two \$150 million application rounds to be held in 2009-10 and 2011-12.<sup>54</sup>

#### **Fourth funding round: projects funded in 2007 from savings and reallocations within the Program**

**1.22** Between July and August 2007, \$1.77 million in Program funding was approved by the then Minister in relation to three regional transport projects. These projects were funded from project savings and re-allocations within the Program. None of the projects had been the subject of an application to the 2006 competitive funding round, and only one of the three had been the subject of a subsequent request from the relevant Council for Strategic Regional Program funding. The other two projects originated, respectively, from a recently made application to the National Black Spot Program and

---

<sup>53</sup> Mark Vaile, Deputy Prime Minister and Minister for Transport and Regional Services and Jim Lloyd, Minister for Local Government, Territories and Roads, *Regional Roads: Building for the Future*, Joint Media Release 009/TRS Budget, 8 May 2007.

<sup>54</sup> *Building a Strong Future for Regional Australia 2007-2008*, Statement by the Honourable Mark Vaile MP Deputy Prime Minister, Minister for Transport and Regional Services, Leader of the Nationals; The Honourable Jim Lloyd MP Minister for Local Government, Territories and Roads; The Honourable De-Anne Kelly MP Parliamentary Secretary to the Deputy Prime Minister and Minister for Transport and Regional Services, 8 May 2007, p. 95.

funding that had been announced as having been secured by the local Federal Member.

### **Fifth funding round: 2007 election commitments**

**1.23** During 2007, the then-Opposition had announced a number of land transport election commitments including for various projects not located on the National Land Transport Network defined under the AusLink Act (as it then was). Some of the 2007 election commitments have been, or are expected to be, funded as Off-Network Projects under Part 6 of the Nation Building Program Act (as it now is).

**1.24** With the change of government and as all remaining Program funding to 2013-2014 has been allocated to 2007 election commitments, there are no longer any plans to run a further two application rounds in 2009-10 and 2011-12 (see paragraph 1.21)

### **Audit objective and approach**

**1.25** Recent performance audit priority for the Australian National Audit Office (ANAO) in the Infrastructure, Transport, Regional Development and Local Government portfolio has been directed at the administration of funding for land transport. Accordingly, this audit is one of a series ANAO is undertaking of land transport funding programs. Four audits have already been completed, namely:

- ANAO Audit Report No. 31 2005–06, *Roads to Recovery*;
- ANAO Audit Report No. 45 2006–07, *The National Black Spot Program*;
- ANAO Audit Report No. 22 2007–08, *Administration of Grants to the Australian Rail Track Corporation*; and
- ANAO Audit Report No. 29 2008–09, *Delivery of Projects on the AusLink National Network*.

**1.26** Another audit currently underway is examining the management of the current R2R Program (including a follow-up examination of the implementation of agreed recommendations made by ANAO in its audit of the initial R2R Program). In addition, following a request from Infrastructure Australia, ANAO is undertaking a performance audit of the integrity and robustness of the processes employed by Infrastructure Australia to determine the adequacy, capacity and condition of nationally significant infrastructure and in developing the infrastructure priority list. Both audits are expected to be tabled in 2009-10.

**1.27** This audit was conducted under section 18 of the *Auditor-General Act 1997*. The objective of the audit was to assess whether the Strategic Regional Program/Off-Network Program has been effectively administered. The scope of the audit included each of the five funding rounds, and also considered the ongoing operation of the Program in the context of the July 2009 changes to the framework for grants administration. During the audit, ANAO:

- held discussions with departmental staff and examined files and documents relating to the development and administration of the Program;
- obtained and analysed project-specific information from funding recipients; and
- undertook project site visits.

**1.28** The audit was conducted in accordance with ANAO auditing standards at a cost to the ANAO of \$510 000.

## 2. Decision-making framework

---

*This chapter examines the framework that has governed decisions about which projects would receive Program funding, including the interaction between the provisions of the land transport legislation and the general financial management framework, and the application of that framework in the selection of projects for funding. It also considers the on-going operation of the Off-Network Program under Part 6 of the land transport legislation in the context of the grants policy framework introduced from 1 July 2009.*

### Introduction

**2.1** Commonwealth grant programs involve the expenditure of public money<sup>55</sup> 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. This framework includes requirements governing the process by which decisions are to be made about whether public money should be spent on individual grants.

**2.2** In addition to the financial management legislation, the Strategic Regional Program/Off-Network Program also operates under land transport legislation (Part 6 of the AusLink Act, now the Nation Building Program Act). The land transport legislation stipulates certain requirements in relation to the approval of projects (considerations in regard to eligibility and appropriateness under the legislation, which are set out in non-exclusive terms), which lead to a Project Approval Instrument that has to be executed before a project is considered to have been formally approved by the Minister for the purposes of the land transport legislation.

**2.3** In practice, the administration of the Strategic Regional Program (and subsequent Off-Network Program) has involved the responsible Minister approving a spending proposal to award a grant to a particular project for the purposes of the FMA Act, as well as signing an Approval Instrument under the land transport legislation. These approvals often occurred separately,

---

<sup>55</sup> 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, FMA Act).



particularly for projects approved in the 2006 and 2007 funding rounds. There was also often a significant delay between the FMA Act approval being given and the grant being announced, and the Minister subsequently formally signing a Project Approval Instrument for the purposes of the land transport legislation.

## Commonwealth financial framework

**2.4** Where they are approving the making of a grant, Ministers are approving the expenditure of public money. This role brings with it particular accountability obligations, including adherence to statutory requirements which govern the circumstances in which Ministers may provide such approvals. In particular, the financial framework requires that a grant not be approved by Ministers unless reasonable inquiries have been undertaken that demonstrate that the proposed expenditure will make efficient, effective and ethical use of public money that is not inconsistent with the policies of the Commonwealth.

**2.5** As noted, the FMA Act provides a framework for the proper management of public money. Many of the rules about how public money is to be dealt with are in the *Financial Management and Accountability Regulations 1997* (FMA Regulations<sup>56</sup>). The FMA Act and associated Regulations apply to Ministers and officials in Australian Government Departments of State, Departments of the Parliament and agencies prescribed in the Regulations.

**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. The general requirements that relate to all spending proposals are as follows:

- FMA Regulation 3 defines a ‘spending proposal’ as a proposal that could lead to the creation of a contract, agreement or arrangement under which public money is, or may become, payable;
- in concert, FMA Regulations 3 and 11 define who is authorised to act as an approver of a spending proposal and in what circumstances;

<sup>56</sup> 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.

- under FMA Regulation 10, a person who is otherwise authorised to act as an approver is not able to lawfully approve a spending proposal that involves expenditure for which there is not sufficient uncommitted appropriation available unless the Finance Minister (or a delegate of the Minister) has authorised the approver in writing to give such an approval;
- FMA Regulation 9 prohibits an approver from approving a spending proposal unless satisfied, after undertaking such inquiries as are reasonable, that the proposed expenditure is efficient, effective and ethical use that is not inconsistent with the policies of the Commonwealth.<sup>57</sup> In the case of grant programs, key policy requirements that a grant proposal must be consistent with in order to be approved include:
  - the *Commonwealth Grant Guidelines: Policies and Principles for Grants Administration* (Commonwealth Grant Guidelines or CCGs) issued in July 2009, which are now the core policy of the Commonwealth relating to grants administration,
  - the specific guidelines applying to the relevant grant program; and
  - grants-specific process requirements decided from time-to-time by the Australian Government<sup>58</sup>;
- under FMA Regulation 12, approvers must make a written record of the factual terms of the approval, either at the time of giving approval or as soon as practicable after that. Since July 2009<sup>59</sup>, there has been an additional requirement applying to grants under which the approver must record the basis of the approval, as well as the terms of the approval; and
- FMA Regulation 13 prohibits any person, whether a Minister, official or any other person, from entering into a contract, agreement or

---

<sup>57</sup> Up to 30 June 2009, the obligation was to undertake such inquiries as are reasonable to be satisfied that the proposed expenditure was in accordance with the policies of the Commonwealth and would make efficient and effective use of the public money.

<sup>58</sup> Department of Finance and Deregulation, *Commonwealth Grant Guidelines: Policies and Principles for Grants Administration*, Financial Management Guidance No. 23, July 2009, p. 9.

<sup>59</sup> See footnote 13.

arrangement under which public money is, or may become, payable unless a relevant spending proposal has been properly approved in accordance with FMA Regulation 9 (including that, where necessary, the Regulation 9 approval was properly authorised for the purposes of Regulation 10).

## Program-specific legislation

**2.7** As noted, the AusLink policy was given formal effect by the AusLink Act, which was assented to on 6 July 2005. During the development of the legislation, the then Minister for Transport and Regional Services advised the then Prime Minister that the provisions relating to the Strategic Regional Program (under Part 6 of the legislation) were similar to those for National Network projects (under Part 3 of the legislation), although the mandatory conditions applying to Strategic Regional Program projects were less extensive. In particular, for both National Network and Strategic Regional Program projects, the legislation provided that:

- the Minister may only approve a project where he or she is satisfied that the project is eligible for approval, with the land transport legislation outlining the types of projects that are eligible for approval under each Part of the legislation—in essence, the same types of projects are eligible for approval under both Parts of the legislation except that projects approved for funding under Part 3 must be located on the defined National Land Transport Network whereas projects approved for funding under Part 6 must not be located on the defined National Land Transport Network;
- the Minister may only approve funding for projects under a particular Part of the land transport legislation where the Minister considers it appropriate to do so, with separate provisions in the two Parts outlining in non-exclusive terms some of the matters the Minister may have regard to in making this decision; and
- a Project Approval Instrument made under the legislation must identify the project; specify the maximum funding amount that the Australian Government may contribute to the project; identify the eligible funding recipient to which the funding may be paid; and, if the approval is conditional on a funding agreement being entered into, contain a statement to that effect. Other terms and conditions of

Australian Government funding may also be specified in Project Approval Instruments.

**2.8** Parts 3 and 6 of the AusLink Act also included similar provisions governing the process by which projects could be identified for funding under the National Network and Strategic Regional Programs. This approach was taken notwithstanding that there were significant differences in the policy objectives of the Programs underpinning the manner by which projects were proposed to be identified for funding. Specifically:

- National Network projects are identified as the result of negotiations between the Australian Government and each State and Territory. By way of comparison, the AusLink White Paper proposed that the Strategic Regional Program would operate as a merit-based grant program with all funding to be competitively allocated based on applications received from LGAs<sup>60</sup>;
- under the National Network Program, the Australian Government negotiates State funding on a project by project basis. In this respect, whilst the bilateral agreements (now called Memoranda of Understanding (MoU)) made with between the Australian Government and each State and Territory identify individual projects and associated amounts of Australian Government funding, the department has advised ANAO<sup>61</sup> that the MoUs do not represent a binding commitment of funds to individual projects in the amounts specified, but are a baseline document for the delivery of National Network projects such that some identified projects may not receive any Australian Government funding or the amount of funding may differ from that included in the MoU. By way of comparison, like most grant programs, the specific amount of funding that has been announced for approved Strategic Regional/Off-Network projects will be provided to the identified funding recipient (subject to a satisfactory Funding Agreement being signed and any conditions on the approval being satisfied);

---

<sup>60</sup> Department of Transport and Regional Services, AusLink White Paper, op. cit., p. xiii.

<sup>61</sup> ANAO Audit Report No. 29 2008–09, *Delivery of Projects on the AusLink National Network*, Canberra, 23 April 2009, p. 63.

- National Network projects are typically expected<sup>62</sup> to be considered for funding on a phased basis, such that funding would only be approved progressively for one project phase at a time. The phased approach means that Project Approval Instruments are updated as additional funding is approved for later stages of the project (for example, once project definition/scoping works and land acquisition is completed and the project has been approved to proceed to construction). By way of comparison, Project Approval Instruments for Strategic Regional/Off-Network projects have typically been approved for the full extent of the works to which the Australian Government funding will contribute—there has been no staged approval under the land transport legislation, with amendments to Project Approval Instruments only occurring where there has been an agreed change to the funded project; and
- the key governance documents for National Network projects are the MoUs signed with each State and Territory. The various MoUs state that they operate in conjunction with the legislation and that the land transport legislation takes precedence, but they are not Funding Agreements under that legislation.<sup>63</sup> By way of comparison, until 2009, binding Funding Agreements were signed for each approved Strategic Regional Program project, irrespective of whether the funding recipient was an LGA or a State Government.<sup>64</sup> From 2009, projects approved under Part 6 of the land transport legislation that are to be delivered by the relevant State are included in the Schedule to that State's MoU (see further at paragraphs 2.77 to 2.79).

---

<sup>62</sup> *AusLink Investment Program: National Projects Notes on Administration*, March 2006, p. 11.

<sup>63</sup> In this respect, whilst the land transport legislation permits funding agreements to be used for projects being delivered by the States or an LGA, it does not require funding agreements to be used.

<sup>64</sup> For example, in October 2005, the then New South Wales Minister for Roads asked the then Minister for Local Government, Territories and Roads to reconsider the request for the NSW Roads and Traffic Authority (RTA) to sign a Funding Agreement so as to receive Strategic Regional Program funding for three projects announced as 2004 election commitments. The State Minister stated that: 'NSW is managing hundreds of millions of dollars of Federal AusLink funding each year under the umbrella of a Bilateral Agreement around 40 pages long. However, Federal funding of \$21 million to the RTA from the AusLink Strategic Regional Program now requires execution of a 60 page monument to the legal profession.' Whilst a Funding Agreement was subsequently executed in relation to the Strategic Regional Program projects, it was a shortened version of the standard Funding Agreement used in relation to other 2004 election commitment projects funded through the Strategic Regional Program. This involved the removal of various clauses in response to the concerns expressed by the State Minister (the Funding Agreement signed with the RTA on 23 June 2006 covering all three projects was 22 pages long).

## Decision-making flexibility

**2.9** In Audit Report No.14 2007-08, ANAO concluded that the audit had highlighted two dimensions relating to the administration of the Regional Partnerships Program, as follows:

- the flexibility in the application assessment and Ministerial approval processes had created challenges in ensuring transparent, accountable and cost-effective administration and in demonstrating the equitable treatment of applicants; and
- the manner in which the program had been administered over the three year period to 30 June 2006 examined by ANAO had fallen short of an acceptable standard of public administration, particularly in respect to the assessment of grant applications and the management of Funding Agreements.<sup>65</sup>

**2.10** Further, given the Strategic Regional Program/Off-Network Program has a legislative basis, but the land transport legislation provides flexibility to the government in implementing the program, recent reports by the Commonwealth Ombudsman are also relevant.<sup>66</sup> In particular, the Ombudsman has commented that, while executive schemes<sup>67</sup> offer advantages in terms of speed and flexibility, these characteristics can also give rise to risks to accountability.<sup>68</sup> The Ombudsman has also commented that, while not necessarily avoiding all of the problems that he has observed in relation to executive schemes, there are benefits of programs being based on legislation.<sup>69</sup> In particular, the Ombudsman has reported that:

The main advantages of executive schemes are the speed with which they can be set up and their flexibility when circumstances change. However, that very flexibility poses risks to the accountability of such

---

<sup>65</sup> ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, *Performance Audit of the Regional Partnerships Program*, Canberra, 15 November 2007, pp. 19-20.

<sup>66</sup> Report by the Commonwealth Ombudsman, Prof. John McMillan, under the *Ombudsman Act 1976*, Report No.12 2009, *Executive Schemes*, Canberra, August 2009, and Report by the Commonwealth Ombudsman, Prof. John McMillan, under the *Ombudsman Act 1976*, Report No.19 2009, *Department of Agriculture, Fisheries and Forestry—Administration of Various Grants Schemes*, December 2009.

<sup>67</sup> Executive schemes are those that rely on executive rather than legislative power for their establishment and implementation.

<sup>68</sup> *Executive Schemes*, op. cit., p. 1.

<sup>69</sup> *ibid.*

schemes. Many of the checks and balances on government power apply only to powers conferred by legislation. Of particular concern are the restricted review and appeal rights that are available to people who are affected by decisions made under executive schemes.

Public awareness of the existence of executive schemes and the rules that apply from time to time can also be a problem, as illustrated in several of the case studies in this report. Agencies do not always publish all the criteria they take into account in assessing eligibility for a program or grant, and sometimes fail to make updated information available as promptly as they should. The standard of drafting of program rules, including eligibility criteria, may not be as high as in legislative schemes, which undergo several external scrutiny processes before they come into operation.<sup>70</sup>

**2.11** As noted, the Strategic Regional Program (now Off-Network Program) is an example of a grant program that has a legislative basis, but which is also subject to executive discretion in its implementation (see further at paragraphs 2.72 to 2.76). Part 6 of the land transport legislation provides authority for the program, but does not provide clear and comprehensive guidance on program processes (including selection criteria and processes for accessing Program funding). Accordingly, the legislation affords a high degree of flexibility as to the application, assessment and decision-making processes that might be employed in providing Program funds to projects. The challenges in operating a transparent and accountable grants scheme within this legislative framework have been highlighted by the way in which the Strategic Regional Program, and subsequent Off-Network Program, have been administered in respect to both:

- the process by which potential funding recipients have been able to access the Program; and
- the approach that has been taken to specifying and publishing the criteria that will be applied in selecting funding recipients.

## **Process by which funding applications may be made**

**2.12** As noted, the AusLink White Paper stated that all Strategic Regional Program funding was to be competitively allocated based on applications

---

<sup>70</sup> *ibid.*

received (see paragraph 1.4). However, the subsequent legislation was drafted in a way that did not require the allocation of available funds to projects competing on merit in response to an open application process. Rather, section 56 of the legislation provides that the Minister may invite submissions from anybody the Minister thinks appropriate and by any method the Minister thinks appropriate, but that the Minister can also approve a project even if it was not submitted in response to an invitation.

**2.13** Against this background, of the five funding rounds that have occurred to date under Part 6 of the legislation, there has been only one public call for applications. This occurred on 2 March 2006, with a closing date for the lodgement of applications of 1 May 2006. Successful projects were announced in November and December 2006.

**2.14** Unsuccessful applications to the May 2006 round were subsequently drawn on to provide most (but not all) of the projects funded in the 2007 Budget round, following the allocation of an additional \$250 million to the Program (compared to the \$127 million available in the 2006 round). As is discussed further in Chapter 5 of this audit report, the published Guidelines had not identified the potential for unsuccessful applications to the 2006 round to be further considered for funding; there was no public call for additional applications; and there was no provision made for any further assessment process. As also discussed in Chapter 5, the projects approved in that round included a number that had been assessed as either ineligible or of low quality in the 2006 application round.

**2.15** A variety of other approaches were taken in the other funding rounds. For example, the flexibility provided by the legislation allowed:

- 78 per cent (\$94.085 million) of the \$120 million originally available under the Strategic Regional Program to be committed through Coalition funding announcements made prior to and during the 2004 election campaign in respect of 23 projects. Consequently, a public call



for applications was delayed until March 2006, after an additional \$100 million in Program funding was provided in November 2005<sup>71</sup>;

- in May 2007, five Members of Parliament from marginal Liberal Party-held electorates were provided with an opportunity by the then Minister for Local Government, Territories and Roads to obtain letters from one or more LGAs in their electorate seeking Program funding for nominated projects. None of the projects had been submitted for funding as part of the 2006 public call for applications.<sup>72</sup> This opportunity was not advertised and was not generally available to other LGAs. Funding was provided in respect to each of the 12 projects that were identifiable from departmental records as having been put forward through this process (see further at Table 5.2 and paragraphs 5.25 to 5.32); and
- the then Minister for Local Government, Territories and Roads to provide \$750 000 in Strategic Regional Program funds for safety improvement works at the intersection of Bells Line of Road/Old Bells Line of Road in Hawkesbury City Council, notwithstanding that neither Hawkesbury City Council or the New South Wales Roads and Traffic Authority (RTA) had sought funding for such a project. Australian Government funding for this work had been announced by the then Minister on 20 July 2007<sup>73</sup>, although the source of the funds had not been identified. Ten days later, on 30 July 2007, the department advised the then Minister that the 2004 election commitment project to construct Bryn Mawr Boulevard Bridge had been completed at an expected final cost that was \$1.66 million lower than the commitment

<sup>71</sup> During late 2004 and 2005, the then Minister for Transport and Regional Services had sought additional funding to enable a credible competitive round to be conducted under the Strategic Regional Program. For example, in November 2004, the then Minister had proposed to the then Prime Minister that, as part of a re-allocation of a broader AusLink funding offer that was not going to be accepted by the relevant State, \$75 million be allocated to the strategic component of Roads to Recovery on the basis that: 'Added to the \$27m which was not committed during the election campaign, this would make a credible fund for a national call for strategic projects and enhance the programme as a strategic initiative.' However, additional funds were not allocated to the Strategic Regional Program until November 2005.

<sup>72</sup> In two instances, the relevant LGA (the City of Ryde and the Town of Gawler) had not submitted any applications for funding in response to the public invitation for project applications.

<sup>73</sup> The Minister's Media Release stated: 'Member for Greenway Louise Markus has secured this funding commitment to deliver the upgrade.' The Media Release referred to the recent death of a 3 year old girl at the intersection on June 15. It stated: 'I call upon the Roads and Traffic Authority and Hawkesbury Council to immediately commence the necessary planning and design work' and 'Preliminary indications are that this could involve measures such as installing traffic lights or constructing a roundabout, Mr Lloyd concluded.'

of up to \$10 million in Australian Government funding. In part, these savings were used to provide \$750 000 to Hawkesbury City Council for the Bells Line of Road/Old Bells Line of Road project (see further at paragraphs 5.109 to 5.117 and Table 2.2).

## **Specifying and publishing eligibility and assessment criteria**

**2.16** As noted, in his recent reports on executive schemes, the Commonwealth Ombudsman commented on the enhanced levels of scrutiny and drafting standards that might be expected to be applied to grant program criteria that are to be included in an Act or in regulations or legislative instruments made under an Act (see paragraph 2.10). In addition, the Ombudsman's report noted that if criteria for executive schemes are highly flexible and the grounds for decisions about grants are not made public, concerns may arise about bias or other impropriety.<sup>74</sup> In this respect, under the CGGs that came into effect on 1 July 2009<sup>75</sup>:

- unless specifically agreed otherwise by Government, competitive, merit-based selection processes should be used, based upon clearly defined selection criteria;
- eligibility and assessment criteria should be set out in the guidelines established for the program<sup>76</sup>;
- criteria for eligibility should be straightforward, easily understood and effectively communicated to potential applicants as this helps avoid frustration and potential costs to applicants, and assists potential applicants to avoid developing and submitting applications that are ineligible or have little chance of success<sup>77</sup>; and
- in the interests of transparency, accountability and equity, grant guidelines should document the circumstances in which the eligibility

---

<sup>74</sup> *Executive Schemes*, op. cit., pp. 5-6.

<sup>75</sup> Commonwealth Grant Guidelines, op. cit., pp. 22, 23, 28 and 29.

<sup>76</sup> This is an approach that has, for many years, been advocated in ANAO's Administration of Grants Better Practice Guide (the current version was published in May 2002, ANAO Better Practice Guide—*Administration of Grants*, Canberra, May 2002. An updated version is expected to be published in 2010).

<sup>77</sup> This same guidance is included in ANAO's Administration of Grants Better Practice Guide (ibid., at paragraph 2.50).

and assessment criteria set out in the program guidelines may be waived or amended.<sup>78</sup>

**2.17** However, whilst the land transport legislation includes eligibility and assessment criteria for the Strategic Regional Program (now Off-Network Program), these criteria are broad and the legislated lists are non-exhaustive. Specifically, section 53 of the legislation precludes the Minister from approving a project unless he or she considers it to be both eligible and appropriate. However:

- whilst section 54 includes provisions identifying those projects that are eligible for approval, this list is not exhaustive because there is no provision that prevents further eligibility criteria being specified, or that requires any further eligibility criteria that are to be applied to be included in regulations, legislative instruments or otherwise advised to any person or entity that may seek funding under Part 6 of the legislation; and
- section 55 lists certain matters that the Minister may have regard to in deciding whether it is appropriate to approve a project (see Table 2.1), but the Minister is also free to consider any other matters (which, again, are not required by the legislation to be included in regulations, legislative instruments or otherwise advised to any person or entity that may seek funding under Part 6 of the legislation).

---

<sup>78</sup> This is consistent with Recommendation No. 6 in the ANAO Regional Partnerships Program audit report, as follows: '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.' (see ANAO Audit Report No. 14 2007-08, Volume 1—Summary and Recommendations, op. cit., p. 123).

**Table 2.1**

**Legislative matters the Minister may consider in determining whether it is appropriate to approve a project under Part 6 of the land transport legislation**

**Section 55**

The matters to which the Minister may have regard in deciding whether it is appropriate to approve a project as an AusLink Strategic Regional Project (*now Nation Building Program Off-Network Project*) include, but are not limited to, the following matters:

a) the extent to which the project is likely to improve the ability of regional industries and communities to compete in international, inter-State or inter-regional trade and commerce;

[*Note: the reference in this matter to 'regional' was deleted in June 2009.*]

b) the extent to which the project is likely to improve a road, railway or inter-modal transfer facility that is regionally significant;

[*Note: Matter (b) was deleted from Part 6 of the Act in June 2009.*]

c) the results of any assessment of the economic, environmental or social costs or benefits of the project;

d) the extent to which the project will improve the safety of transport operations;

e) the extent to which the project is likely to improve access for regional communities to services and employment;

[*Note: the reference in this matter to 'regional' was deleted in June 2009.*]

f) for projects that relate to roads in areas for which no local government authority has responsibility—the extent to which the project will improve or maintain the serviceability of a road in such an area;

g) the extent to which persons other than the Commonwealth propose to contribute funding to the project.

Source: *AusLink (National Land Transport) Act 2005*, section 55 (applying between 28 July 2005 and 26 June 2009) and *Nation Building Program (National Land Transport) Act 2009*, section 55 (applying from 26 June 2009).

**2.18** This approach provides the capacity to apply additional eligibility criteria to those specified in section 54, as well as to apply assessment criteria that are either additional to those specified in section 55, or in substitution to those specified in section 55.

**2.19** As noted, where additional criteria are to be applied, the land transport legislation does not require that they be included in either regulations or legislative instruments. This legislated flexibility was relied upon in the only public call for applications to a competitive funding round conducted under the Program in 2006. Specifically, the Program Guidelines issued on 3 March 2006 stated that applications would be assessed on a competitive basis against criteria specified in the Guidelines. In this respect, the Guidelines included:

- eligibility criteria that were additional to those specified in section 54 of the AusLink Act; and

- assessment criteria which, while reflecting the legislative clauses in section 55 as to those matters the Minister may have regard to in deciding whether to approve a project, did not completely match the legislative clauses.<sup>79</sup>

**2.20** Applicants participating in the 2006 round were reasonably entitled to proceed on the basis that, in issuing the Guidelines together with an invitation to submit proposals in a specified form that would be assessed on a competitive basis against the criteria specified in the Guidelines, the then Minister had made a determination as to the matters he would take into account in order to fulfil his obligations under section 53 of the AusLink Act to be satisfied that a project was eligible and appropriate to approve. Accepted good practice at that time (now a requirement under the CCGs<sup>80</sup>) was that the decision as to which projects to approve for funding would be transparently based upon an assessment against the criteria set out in the Guidelines issued under the then Minister's authority.

**2.21** In announcing additional Strategic Regional Program funding of \$250 million in the May 2007 Budget, the then Ministers stated that the additional funding had been allocated to enable more applications to the heavily over-subscribed 2006 application round to be funded (see paragraphs 1.19, 5.8 and 5.24). Those applications had been submitted in response to the Program Guidelines issued in March 2006, and there was no documented consideration of an alternative regime applying to the selection of further projects for funding through the additional Program funding.

**2.22** On that basis, this audit report has examined the assessment of applications submitted in response to the March 2006 public call for applications, and the selection of projects to be funded through the 2006 and

<sup>79</sup> For example, safety is listed in the land transport legislation as a matter the Minister may consider in determining whether a project is appropriate to be approved under Part 6 of the legislation (see matter (d) in Table 2.1), but was not included in the 2006 Program Guidelines as an assessment criterion for applications seeking more than \$1 million in Program funding (described as 'Large Projects'). Safety was identified in the Guidelines as an assessment criterion for 'Small Projects' (applications seeking up to \$1 million in Program funding), however the manner in which it was subsequently applied effectively waived the criterion as a means of discriminating between competing applications (discussed further at paragraph 2.62).

<sup>80</sup> This is reflected in paragraphs 3.16 and 3.17 of the CCGs, which advise that the guidelines applying to a granting activity, such as grant program guidelines, represent policy requirements in relation to the administration of the relevant program. Under FMA Regulation 9, a proposed grant must not be approved unless the approver is satisfied, after making such inquiries as are reasonable, that it will make proper use of Commonwealth resources, including that it is not inconsistent with the policies of the Commonwealth.

2007 funding rounds, in the context of the Guidelines provided to potential funding recipients in March 2006, as follows:

- Chapter 3 examines the assessment of applications submitted in May 2006 in response to the only public call made to date for applications seeking funding under Part 6 of the land transport legislation. Applications submitted and assessed through that process accounted for all of the projects funded in the 2006 round and most of the projects funded in the 2007 Budget round;
- Chapter 4 examines the decision-making processes that led to the selection of funding recipients announced in December 2006 for the 2006 funding round—the second funding round; and
- Chapter 5 examines the decision-making processes that led to the selection of funding recipients announced in May and June 2007 as part of the 2007 Budget funding round—the third funding round (together with three additional projects funded in 2007 from savings and reallocations within the Program—the fourth funding round).

**2.23** Chapter 6 examines the use of Part 6 of the land transport legislation to fund projects that were the subject of election commitments made in the context of the 2004 and 2007 Federal elections—the first and fifth funding rounds respectively.

**2.24** The remainder of this chapter examines:

- the overall grant approval processes applied across the five funding rounds to date, when considered against the financial management framework and the provisions of the land transport legislation; and
- the adequacy of current Program Guidelines relating to the Off-Network Program when considered against the requirements of the CCGs.

## **Interaction of the financial framework approval processes with those of the land transport legislation**

**2.25** As noted, Part 4 of the FMA Regulations governs the process by which proposals to spend public money may be approved. In the light of earlier ANAO performance audits, current advice from the Department of Finance and Deregulation (Finance) is that:

The FMA Regulations establish important statutory obligations for approvers (including Ministers, Chief Executives and officials). There should therefore be clarity as to who is exercising approval powers and their authority to do so. In particular, as part of planning complex procurements or establishing or reviewing grant programs, FMA Act agencies should undertake an analysis of their proposed processes in the context of the FMA Act and the FMA Regulations and any other specific relevant legislation. This will help identify the most appropriate timing for FMA Regulation 9 and FMA Regulation 10 decisions and should clearly establish who will make, and therefore be accountable for, those decisions.<sup>81</sup>

**2.26** Ministers have made the final decisions in relation to the approval of Strategic Regional Program funding for individual projects. In this respect, there were no projects that received funding under the Program where a Minister did not approve, in writing, the provision of the funding. Typically, funding decisions for Strategic Regional Projects<sup>82</sup> were made and documented in the following way:

- the then Minister for Local Government, Territories and Roads would advise the department that he had decided to provide a certain amount of funding to a particular project or projects. In most cases, the project had been the subject of an application for funding which had been assessed by the department against published Program Guidelines. However, in some cases, it had not;
- the decision to provide funding to the project would be publically announced (usually by the then Minister issuing a Media Release);
- a letter of offer from the then Minister would be sent to the funding recipient advising them that the funding offer was conditional upon a Funding Agreement being entered into with the department;
- once the offer had been accepted and a Funding Agreement was ready for execution, the department would prepare, for the then Minister's signature, a Project Approval Instrument for the purposes of the land transport legislation. Once signed, a copy of the Project Approval Instrument would be provided to the funding recipient. For projects approved as part of the 2006 funding round, delays of some months

<sup>81</sup> Department of Finance and Deregulation, Finance Circular 2009/05, *Commitments to spend public money (FMA Regulations 7 to 13)*, 29 June 2009, p. 2.

<sup>82</sup> Apart from 2004 and 2007 election commitments—see Chapter 6 of this audit report.

between the Minister's original funding decision and the signing of a Project Approval Instrument were relatively common;

- a departmental official would complete a proforma FMA Regulation 9 approval form;
- the Funding Agreement would be signed. Again, for projects approved as part of the 2006 funding round, it was not uncommon for there to be delays of many months between the Minister's funding decision (and related public announcement) and the signing of a Funding Agreement; and
- the first (and, for projects approved in the 2007 Budget round, only) instalment of Program funds would be paid to the funding recipient.

**2.27** Typically, the Ministerial approval of individual grants was documented in the form of a memorandum to the department from the Minister. Some memoranda asked the department to prepare Project Approval Instruments under the AusLink Act for the then Minister's signature. Others asked that funding offers be made to the listed project proponents and recorded that the offers were to be subject to a Funding Agreement being entered into. Accordingly, notwithstanding that officials signed FMA Regulation 9 proforma as part of internal control procedures, the statutory function of approving a spending proposal had been undertaken earlier by the then Minister.

**2.28** Consistent with the considerable flexibility inherent in the Program administrative arrangements, it was not uncommon for the then Minister to approve funding for projects without having received departmental advice in favour of funding being approved. Specifically, less than one-third of the 192 projects approved in the three funding rounds held across 2006 and 2007 had been:

- assessed by the department against the published Program Guidelines;
- rated *Medium* or *High* against the Guidelines; and
- included in the department's suggested potential packages of projects that could be approved for funding in the 2006 funding round.<sup>83</sup>

---

<sup>83</sup> The approach of providing the Minister with a 'potential funding package' rather than a ranked list of eligible applications based on their priority for funding under the Program Guidelines is discussed at paragraphs 2.42, 2.46 and 4.13 to 4.30.



**2.29** Of the remaining 130 projects approved for funding in 2006 and 2007:

- three projects<sup>84</sup> (two per cent) had been assessed by the department as being ineligible and, accordingly, did not proceed past the eligibility check stage of the 2006 application round;
- 17 projects<sup>85</sup> (eight per cent) had not been subject to any departmental assessment of their merits either prior to or following the then Minister making his funding decision—each of these projects was approved for funding in 2007;
- five projects<sup>86</sup> (three per cent) had not been subject to a Detailed Assessment by the department against the published criteria, reflecting the then Minister's agreement with a departmental proposal that only those Large Projects rated *High* or *Medium* after the Initial Review stage would progress to the Detailed Assessment stage of the 2006 application round and be considered for funding (see further at paragraphs 3.19 and 4.7 to 4.11);
- 40 projects<sup>87</sup> (21 per cent) had been rated *Low* based on a Detailed Assessment against the published Program Guidelines, due to failing to meet and/or barely meeting criteria set out in the Guidelines and/or representing a high cost or timeline risk; and
- 65 projects<sup>88</sup> (34 per cent) had been rated either *Medium* or *High* by the department against the Program Guidelines, but were not included in the department's proposed possible package of projects to be funded in the 2006 funding round.

**2.30** Under the financial framework in place at the time these decisions were made, no spending proposals were permitted to be approved unless the approver (including a Minister) was, after making reasonable inquiries, satisfied that the proposed expenditure represented efficient and effective use of public money. The then Minister did not document the basis on which he

---

<sup>84</sup> Each was located in a Coalition-held electorate.

<sup>85</sup> Each was located in a Coalition-held electorate.

<sup>86</sup> Each project related to a Coalition-held electorate. In one instance, the project related to both a Coalition-held electorate and an ALP-held electorate and, in another instance, the project related to both a Coalition-held electorate and Independent-held electorate.

<sup>87</sup> Of these, 33 related to at least one Coalition-held electorate.

<sup>88</sup> The majority of these projects (53 or 82 per cent) related to at least one Coalition-held electorate.

had determined the projects that were to be approved in any of the three funding rounds held in 2006 and 2007.

### **Projects not subject to a departmental assessment against the published criteria**

**2.31** Of the 192 projects approved for funding in 2006 and 2007, 175 (82 per cent) had been submitted to the 2006 application round and assessed by the department against eligibility and, for projects considered eligible, assessment criteria included in published Program Guidelines (although, as noted, some approved Large Projects, while considered eligible, had only reached the Initial Review assessment stage).

**2.32** As outlined in ANAO Audit Report No. 52 2005–06, the project selection processes applied in grant programs should encourage applicants to put forward their best possible applications, and select the best applications that will achieve the program objectives, within a value for money context.<sup>89</sup> In achieving this, the ANAO Administration of Grants Better Practice Guide states:

...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.<sup>90</sup>

**2.33** Accordingly, as outlined in ANAO Audit Report No. 14 2007–08, where published assessment criteria are set out for a grant program, 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.<sup>91</sup>

**2.34** As discussed, the Program Guidelines under which applications had been submitted in May 2006 specified the eligibility and assessment criteria

---

<sup>89</sup> 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.

<sup>90</sup> ANAO Better Practice Guide—Administration of Grants, May 2002, op. cit., p. 45.

<sup>91</sup> ANAO Audit Report No. 14 2007–08, *Performance Audit of the Regional Partnerships Program*, Volume 2—Main Report, Canberra, 15 November 2007, p. 153.

that would be applied in selecting successful applicants through a competitive, merit-based process. The Program Guidelines did not advise potential applicants that there may be circumstances in which the eligibility criteria set out in the Guidelines could be waived. Nevertheless, of the 175 projects approved for funding in 2006 and 2007 that had been assessed by the department, three had been ineligible under the Guidelines under which they had been submitted.<sup>92</sup>

**2.35** In respect to the 17 projects approved in 2007 which had not been assessed by the department against the eligibility or assessment criteria:

- 12 resulted from May 2007 letters from eight LGAs to their local Member of Parliament seeking Program funding (see Table 5.2), despite there having been no public call for applications associated with the 2007 Budget funding announcement. Each of the five Members involved represented marginal Liberal Party-held electorates. The letters from the relevant LGAs were provided directly to the then Minister by the relevant Members and were not subject to any departmental assessment (discussed further at paragraphs 5.25 to 5.32);

---

<sup>92</sup> The three ineligible projects, each of which was funded in the 2007 Budget round, were:

- the Edwin Land Parkway—Stage 2 project submitted by Queanbeyan City Council (within the then marginal Liberal electorate of Eden-Monaro). This application for a project on a local road was deemed to be ineligible in the 2006 round due to only proposing co-funding representing 25 per cent of total project costs, instead of the 30 per cent required under the Guidelines. However, the project was approved in May 2007 for the full funding sought of \$6 million toward an \$8 million project. An increase in the Council's contribution was not sought prior to the project being approved;
- the Snowy River Way Upgrade project submitted by Bombala Council (also within the then marginal Liberal electorate of Eden-Monaro). This application for a project on a local road was deemed to be ineligible in the 2006 round due to only proposing co-funding representing 5.9 per cent of total project costs, instead of the 30 per cent required under the Guidelines. In submitting the application in April 2006, Council acknowledged that it had not satisfied the requirements of the Guidelines, advising: 'The sheer scope of this project is too much for the Council to fund even 30% of the cost in the time period allowed without creating significant stress on the small rate base.' However, the project was approved in May 2007 for the full funding sought of \$7.522 million toward an \$8 million project. An increase in the Council's contribution was not sought prior to the project being approved; and
- the Melba Highway Deviation Yarra Glen project submitted by Yarra Ranges Shire Council (within the then Fairly Safe Liberal electorate of McEwen). This application for a project on a State road was deemed to be ineligible in the 2006 round due to not proposing any co-funding, compared to the minimum of 50 per cent required under the Guidelines. A November 2006 State Government media release had announced State funding of \$9 million toward the project and a \$500 000 contribution by Council. A letter confirming the State Government contribution provided to the then Minister for Local Government, Territories and Roads in April 2007 by the responsible State Minister referenced a recent meeting between the Ministers at which the State Government Minister had raised the issue of funding for this project and thanked the then Minister for Local Government, Territories and Roads for agreeing to review the matter. The project was approved in May 2007 for the full funding sought of \$5.5 million.

- two related to unsolicited funding proposals submitted in December 2006 and March 2007 respectively (the 2006 application round closed on 1 May 2006). The then Minister decided to fund both projects in the 2007 Budget round without asking the department for advice as to whether either satisfied the published Guidelines, or in relation to the relative merits of the projects in comparison to other unsolicited proposals that had been received in the same timeframe (see footnote 201); and
- three projects were identified by the then Minister in July and August 2007 in order to redistribute savings from other projects that had either been completed at a lower cost or where a scope change was not approved (see Table 2.2).

**Table 2.2**

**Case study of projects not subject to departmental assessment that were identified for re-allocation of funds in 2007**

In August 2007, the department recommended to the then Minister that he not approve a requested scope change for the Mindarie Railway Siding project (located in the then safe Coalition-held seat of Barker) that had been approved in the 2006 round. The department recommended that the Minister withdraw the offer and provide it with an instruction on the reallocation of the \$495 000 in Program funds. The Minister decided that funding of \$325 000 should be offered to a new project for the installation of traffic lights at the intersection of the Princes Highway/Woodside Road/Saleyard Road at Nairne in South Australia (also in the electorate of Barker). This project had been nominated earlier in August 2007 for funding under the AusLink Black Spot Program and had not been the subject of any departmental assessment.

As noted at paragraph 2.13, on 30 July 2007 the department had advised the then Minister that the 2004 election commitment project to construct Bryn Mawr Boulevard Bridge (within the Coalition-held electorate of La Trobe) had been completed by the City of Casey at an expected final cost that was \$1.66 million lower than the commitment of up to \$10 million in Australian Government funding. The then Minister determined that those savings were to be used to:

- (as requested by the City of Casey) provide \$695 000 towards the estimated \$750 000 cost of a new project of finalising the duplication of Kangan Drive, Berwick (also located within the electorate of La Trobe); and
- provide \$750 000 in Program funds for safety improvement works at the intersection of Bells Line of Road/Old Bells Line of Road in Hawkesbury City Council, notwithstanding that neither Hawkesbury City Council or the New South Wales RTA had sought funding for such a project (located in the Coalition-held seat of Greenway).

Source: ANAO analysis of departmental records.

**2.36** Where Ministers 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. However, the memorandums approving

funding for nominated projects signed by the then Minister in 2007 did not record what inquiries had been undertaken by himself or his Office such that the Minister was able to be satisfied that these 17 grants represented efficient and effective use of public money.

**2.37** Nor did the then Minister record any additional inquiries as having been undertaken in respect to the three projects approved in 2007 which had been determined to be ineligible and which, therefore, had not proceeded to the assessment stage in 2006 (see paragraph 2.31).

**2.38** In this respect, until 1 July 2009, there was no requirement for Ministers to document the nature and extent of any inquiries they may undertake, or cause to be undertaken, in order to satisfy themselves that a proposed grant would make efficient and effective use of public money. Nevertheless, it has been recognised as being sound practice for Ministers to document the basis for decisions that are taken. This aids program transparency and public accountability and allows Ministers to demonstrate that the program parameters, as established by the government and advised to the public, are being met and all applicants treated fairly. This was reflected, for example, in the May 2002 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.<sup>93</sup>

**2.39** The financial framework applying to grants administration has been enhanced, with effect from 1 July 2009. Specifically, in addition to the general requirements relating to the expenditure of public money, the introduction of the new policy framework for grants administration involved the specification of a number of additional statutory requirements under the FMA Regulations.

**2.40** Of particular relevance to situations where Ministers are approving grants without the benefit of departmental advice, FMA Regulation 12 (which requires approvers of all spending proposals to record the factual terms of the approval in writing) has been amended to include an additional requirement

---

<sup>93</sup> ANAO *Better Practice Guide—Administration of Grants*, May 2002, op. cit., p. 23.

that, where the spending proposal relates to a grant, approvers must also make a written record of the basis on which he or she is satisfied that the proposed grant complies with FMA Regulation 9.<sup>94</sup> In addition, the CCGs now stipulate that the Australian Government has agreed that where a Minister exercises the role of a financial approver relating to a grant, they will not approve the grant without first receiving agency advice on the merits of the proposed grant.<sup>95</sup>

## **Departmental assessments and funding recommendations**

**2.41** It is important to recognise that Ministers are not obliged to accept or agree with the assessments and/or funding recommendations of officials or other advisory bodies. In terms of the financial framework:

- 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; and
- where Ministers decide to approve funding for a project that a department has recommended not be approved for funding or has assessed as not satisfying the Program Guidelines<sup>96</sup>, the FMA Regulations require that Ministers undertake reasonable inquiries to satisfy themselves that, notwithstanding the departmental assessment and advice, the spending proposal represents proper use of public money.<sup>97</sup>

**2.42** A key aspect to these arrangements is the expectation that, when Ministers are undertaking the statutory role of approver for a grant program, departments will undertake assessment processes and provide funding recommendations to Ministers.

---

<sup>94</sup> As discussed at footnotes 11 and 13, a requirement to record the basis for approving grants in the relevant Minister's own electorate or contrary to departmental advice was introduced by the Government on 16 January 2009, with FMA Regulation 12 being amended from 1 July 2009 to include a statutory requirement to record the basis for all grant approvals.

<sup>95</sup> Commonwealth Grant Guidelines, *op. cit.*, paragraph 3.19, p. 10.

<sup>96</sup> 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.

<sup>97</sup> 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.

**2.43** As noted, of the five funding rounds conducted under the Strategic Regional Program between 2004 and 2007, it was only in respect of submissions to the 2006 call for applications that the department assessed projects against published Program Guidelines (with some assessed projects subsequently being approved in the 2007 Budget round). However, whilst projects were assessed, the department did not provide funding recommendations. While, at the completion of the 2006 assessment process, it proposed to the responsible Ministers a 'potential funding package' of 65 projects with an Australian Government contribution of \$126.87 million, it did not provide any formal recommendations as to whether individual projects should or should not be approved for funding. Nor did the department explicitly seek the Minister's agreement or otherwise to the proposed potential package.

**2.44** Further, despite the Guidelines stating that the available funding would be allocated under a competitive, merit-based process, the department did not formulate a ranked list of assessed eligible applications based upon their respective merits and priorities for funding when considered against the Program Guidelines (discussed further at paragraphs 4.13 to 4.30). The rationale for adopting this approach was not documented but, during the course of this audit, the department advised ANAO that:

The department at no stage actually recommended projects to the Minister. It provided advice on packages or suites of projects that the Minister may want to consider.

**2.45** The list of projects ultimately approved for funding in 2006 by the then Minister differed significantly from the 'potential funding package' put forward by the department, including through the inclusion of projects that had been rated *Low* against the assessment criteria (in general this had been due to failing to satisfy and/or only barely satisfying one or more assessment criteria). The projects approved by the then Minister in the subsequent 2007 Budget round also included projects that had been rated *Low* by the department in the 2006 assessment process. The then Minister did not provide any reasons for his decisions or document any additional inquiries that may have been undertaken to inform the decisions to approve funding in both 2006 and 2007 for projects that the department had rated as low quality when considered against the Program Guidelines, including not satisfying all relevant criteria. This issue is examined more fully in Chapters 3, 4 and 5 of this audit report.

**2.46** In addition to requiring approvers to record the basis for grant funding decisions, the recent changes to the financial framework have also addressed the shortcoming that permitted the department to provide the then Minister with a potential funding package in respect of the 2006 application, but to not make any recommendations in respect to funding of individual projects. Specifically, as noted at paragraph 2.39, the CGGs require that Ministers not approve a grant without first receiving agency advice on the merits of the proposed grant. In practice, advice on the merits of a proposed grant includes a clear agency recommendation to the Minister concerning whether or not funding should be approved under the relevant program's Guidelines. Practices that would not sit comfortably with the new policy framework for grants decision-making include:

- (as occurred with the Strategic Regional Program) the relevant Minister being provided with a list of projects variously rated against qualitative ratings (for example: *High, Medium, Low*), but with no recommendation or advice as to:
  - which projects were ranked highest and should be funded within the available funding having regard for their capacity to contribute to the achievement of program objectives, both in regard to their assessment against the criteria and in comparison to other eligible applications, or
  - which projects the agency recommends should not be funded, having regard for their capacity to contribute to the achievement of program objectives, both in regard to their assessment against the criteria and in comparison to other eligible applications; or
- the relevant Minister being provided with a short list of projects that, based on a risk assessment (rather than the application of objective, comparative assessment criteria), the department recommends could each be funded subject to available funding, but without any departmental recommendation as to which projects were ranked highest and should be funded within the available funding having regard for their capacity to contribute to the achievement of program objectives both in regard to their assessment against the criteria and in comparison to other applications.



## **Project Approval Instruments under the land transport legislation**

**2.47** Once the Minister had advised that funding was to be provided to a nominated project, the department prepared the Project Approval Instrument required for the purposes of the land transport legislation. As noted, section 53 of the legislation stipulates that the Minister may approve a project under Part 6 if, and only if, the Minister considers it is appropriate. As also noted, section 55 of the legislation outlines a non-exhaustive list of matters the Minister may have regard to in deciding whether it is appropriate to approve a project under Part 6 of the legislation.

**2.48** When preparing the relevant Project Approval Instruments for the then Minister's signature, the department did not seek guidance from the Minister as to the reasons for his decision to approve each project, either in terms of the Program Guidelines or the matters specified in section 55 of the (then) AusLink Act (see Table 2.1). Rather, on the basis of its understanding of the project approved by the Minister, the department identified for inclusion in the material included with the Project Approval Instrument those matters listed in section 55 of the AusLink Act that the department considered were relevant to the earlier Ministerial decision to approve funding.

**2.49** In each case, the department identified one or more of the legislated sub-clauses as supporting the appropriateness of the project for funding under the land transport legislation, and included the nominated clauses in the material provided to the Minister with the Project Approval Instrument for his signature. No other 'appropriateness' matters were listed in relation to satisfying the requirements of the legislation in any case examined by ANAO.

**2.50** There were no instances where the Minister amended any of the legislated appropriateness clauses proposed by the department as a basis for the Minister's earlier decision to provide Strategic Regional Program funding.

### ***Preparation of Project Approval Instruments for projects not assessed by the department***

**2.51** For the 20 projects approved in 2007 without the benefit of a departmental assessment, the then Minister did not, at the time of informing the department of his decision to approve funding for each project, outline the matters he had had regard to in deciding it was appropriate to approve the funding for the purposes of the land transport legislation.

**2.52** Three applications to the 2006 round that were identified as being ineligible under the Guidelines at the initial eligibility check stage of the assessment process (and which, therefore, did not undergo any further assessment against the published criteria) were approved for funding on

10 May 2007. Project Approval Instruments was signed for these projects between 7 June 2007 and 25 June 2007.

**2.53** Fourteen of the remaining 17 projects that the department had not assessed against the Program Guidelines were also approved for funding on 10 May 2007. One of those projects did not proceed to have a Project Approval Instrument signed as the funding offer had to be withdrawn due to Council being unable to secure State Government partner funding by the required date. Of the remaining 13 projects, Project Approval Instruments were signed between 13 June 2007 and 25 June 2007.

**2.54** In order to give effect to the Ministerial expectation that funds be paid before 30 June 2007, there was insufficient time for the department to obtain and analyse any details in respect to the projects. Rather, the department relied upon statements made in correspondence by the LGA seeking the funding in order to identify which of the matters listed in section 55 of the AusLink Act were consistent with the claimed benefits (an example is outlined in Table 2.3).

**Table 2.3**

**Case study illustrating the approach taken to identifying the appropriateness under the land transport legislation of a project submitted for funding by way of letter to a local Member and not assessed by the department**

The 9 May 2007 letter from the Shire of Yarra Ranges to the Member for La Trobe seeking funding for a project to upgrade Wellington Road stated (in full) that:

The Shire of Yarra Ranges fully support the Wellington Road upgrade and seeks federal assistance from the AusLink Strategic Regional Program to enable these important improvements to proceed.

**The upgrading of Wellington Road by constructing overtaking lanes in strategic locations between Lysterfield Road and Clematis** is extremely important to Yarra Ranges residents who use this road on a daily basis to access Melbourne. We are seeking \$8 million from the Australian Government which is the estimated cost of the works.

**The provision of overtaking lanes will significantly reduce traffic congestion along Wellington Road and provide substantial safety improvements.** [ANAO emphasis]

The Supporting Information for the Project Approval Instrument prepared by the department for the then Minister's signature in June 2007 stated that the project met sub-sections (d) and (e) of section 55 of the AusLink Act. The relevant sub-sections were: (d) the extent to which the project will improve the safety of transport operations; and (e) the extent to which the project is likely to improve access for regional communities to services and employment. In terms of documenting how the project met these requirements, the department did not undertake any independent assessment of the Council's claims, but instead replicated the two sentences from the Shire of Yarra Ranges 9 May 2007 letter seeking funding as highlighted above, as follows:

This project will provide for the **upgrading of Wellington Road by construction of overtaking lanes at strategic locations between Lysterfield Road and Clematis. The provision of overtaking lanes will significantly reduce traffic congestion along Wellington Road and provide substantial safety improvements.** [ANAO emphasis]

Source: ANAO analysis of departmental records.

**2.55** A similar approach to the preparation of a Project Approval Instrument was taken with respect to the remaining three projects that were approved

without the benefit of a departmental assessment in July and August 2007 (see further at paragraphs 5.107 to 5.117).

*Preparation of Project Approval Instruments for projects that had been assessed by the department, but not rated highly*

**2.56** In addition to promoting accountability for decision-making and assisting the relevant Minister to meet his/her obligations under the land transport legislation, obtaining clarity about the key considerations relied upon by a Minister when deciding to approve a grant would inform the department in its preparation of Funding Agreements. In particular, it is important for Funding Agreements to be framed in a manner that is consistent with, and promotes achievement of, the expected outcomes on which the Minister had based his/her determination that the project would provide value for the public money involved.<sup>98</sup>

**2.57** The absence of documented reasons by the then Minister as to why he had decided to approve funding for projects presented particular challenges under the AusLink Act in circumstances where the department had rated the project poorly against the published Program Guidelines (that is, as meeting criteria to a low level or not at all). This is particularly the case given that all but one of the section 55 appropriateness criteria nominated in the land transport legislation related to the extent to which a project meets the criterion.<sup>99</sup>

**2.58** However, the department did not seek clarity from the then Minister or his Office in this regard in respect to projects approved through 2006 and 2007 rounds of the Strategic Regional Program which the departmental assessment had rated as *Low*. Instead, the department's approach to preparing Project Approval Instruments for each such project identified in the then Minister's earlier funding decisions was to rely on claims made by the project proponent in its application.

**Improving road safety**

**2.59** The AusLink Act provided that one of the matters to which the Minister may have regard in deciding whether it was appropriate to approve a project as a Strategic Regional Project included the extent to which it would

<sup>98</sup> FMA Regulation 13 requires that any Funding Agreement be consistent with the terms of the FMA Regulation 9 approval to which it relates.

<sup>99</sup> The one exception relates to the Minister having regard for: 'the results of any assessment of the economic, environmental or social costs or benefits of the project.' To date, the Project Approval Instrument for only one project has been prepared and signed on the basis of this criterion.

improve the safety of transport operations. In this respect, the most common reason for funding being approved under the legislation that was put forward in Project Approval Instruments prepared by the department related to the extent to which the project would improve the safety of transport operations. Further, the Project Approval Instruments prepared by the department for more than 90 per cent of projects funded in the 2006 and 2007 rounds identified that they were appropriate to be approved on the basis that, amongst other things, they would improve transport safety. This approach was adopted regardless of whether the departmental assessment of the relevant application had concluded the project would actually offer safety benefits.

**2.60** For example, the Project Approval Instrument prepared by the department and signed by the then Minister to provide \$2.8 million to Huon Valley Council for its \$4 million Esperance Coast Road Upgrade project was based on two factors, including the extent to which the project would provide safety benefits. Notwithstanding that the departmental assessment of that project had not identified any safety benefits, the Supporting Information for the Project Approval Instrument prepared by the department following the then Minister's advice that funding was to be offered to that project stated that:

The sealing of the remaining unsealed section and the essential works in the sealed section will provide a safer road environment for tourists, local residents and industry traffic.

**2.61** Road safety was included in the Program Guidelines as an assessment criterion for Small Projects, but not for Large Projects (see footnote 79 and further at Table 3.4). Accordingly, the extent, if any, of safety benefits expected to be provided by a Large Project were not considered as part of the departmental assessment process. Nevertheless, there were 50 Large Projects assessed by the department and approved by the then Minister in 2006 or 2007 where the reasons subsequently cited as supporting the signing of the Project Approval Instrument included that the project would improve the safety of transport operations.

**2.62** In respect to Small Projects, the department developed a 'business rule' during the assessment process that all small projects would be rated as at least 'Generally meets' the criterion 'proposal demonstrates improvements to the safety of transport operations'. Accordingly, no Small Project would be rated as not meeting that assessment criterion. Departmental records state that:

The premise is that all infrastructure improvements contribute to safety in some way or another, even if the proponent hasn't specifically aimed the

project at safety enhancement or identified the actual safety benefits of the project.

**2.63** This approach rendered the safety benefits criterion stipulated in the published Guidelines ineffective as a means of comparing the relative merits of competing applications, and effectively waived the criterion for projects that would otherwise have been assessed as not meeting the criterion based upon the claims set out in the application. For 97 of the 112 Small Projects that had been assessed against the Guidelines and approved by the then Minister in 2006 or 2007, the Project Approval Instruments subsequently prepared by the department relied on the safety benefits of the project as one of the reasons it was appropriate (in terms of section 55 of the AusLink Act) for the Minister to sign the Instrument. This was notwithstanding that, for a number of these projects, the departmental assessment had raised concerns about the claimed safety benefits.

**2.64** For example, in May 2007 the then Minister advised the department that funding totalling \$2.015 million was to be awarded to Gloucester Shire Council for three projects on the Bucketts Way (located in the then-Coalition held electorates of Paterson and Lyne). Each project had been rated *Low* in the 2006 assessment process. The Project Approval Instruments signed on 7 June 2007 proposed it was appropriate to approve each project based on the extent to which it was likely to improve a road, railway or inter-modal transfer facility that is regionally significant and improve the safety of transport operations. As illustrated by Table 2.4, the Supporting Statements for each Instrument outlined similar reasons for why each of the projects met the requirements of section 55 of the AusLink Act. This was notwithstanding that the 2006 departmental assessment had raised concerns in respect to both the claimed regional benefits and claimed safety benefits for each project.<sup>100</sup>

---

<sup>100</sup> Another example related to the then Minister's decision on 21 June 2007 to provide \$200 000 to Victoria Park Town Council for its Berwick Street—McMillan Street to Kent Street project (located in the then marginal ALP-held seat of Swan). The project had been rated *Low* in the 2006 assessment and was not approved for funding in the 2006 round. The Project Approval Instrument subsequently prepared by the department and signed by the Minister proposed that it was appropriate to approve the project for the purposes of the land transport legislation based on the extent to which it was likely to improve a road, railway or inter-modal transfer facility that is regionally significant and improve the safety of transport operations. This was notwithstanding that the 2006 assessment identified that the application did not include any data or evidence to identify the nature of the safety issues, what works would be undertaken or what effect on safety they would have. The assessment also concluded that the project did not meet any of the regional significance criteria.

**Table 2.4**

**Bucketts Way Road Rehabilitation Projects: Gloucester Shire Council**

Project	2007 Supporting Information for Approval Instrument	2006 Departmental assessment extract
Bucketts Way - Bridge Replacement - Broad Gully	The project will deliver improvements to a road which is regionally significant for tourism and communities of the Gloucester, Greater Taree and Great Lakes shires. Bucketts Way provides an alternate, sealed route to the Pacific Highway from just north of Raymond Terrace to Taree. The project will enhance the safety of road users through the replacement of a narrow bridge which is of an inconsistent standard with the rest of the route.	The project barely meets the community and regional significance criterion. The project is located on an important regional route, shown by letters of support given by two other local governments. The Mid North Coast ACC confirms the routes importance, but evidence or argument substantiating the impact of the project on industry travel times and costs is not in the application.  The application, while claiming that the project has strong safety benefits, has not provided the evidence to support the claim.
Bucketts Way - Road Rehabilitation - Deep Creek	The project will deliver improvements to a road which is regionally significant for tourism and communities of the Gloucester, Greater Taree and Great Lakes shires. Bucketts Way provides an alternate, sealed route to the Pacific Highway from just north of Raymond Terrace to Taree. The project will enhance the safety of road users through upgrading of deficient sections of the route to a consistent standard.	The project barely meets the community and regional significance criterion. The project is located on an important regional route, shown by letters of support given by two other local governments. The Mid North Coast ACC confirms the route's importance. The extent of the impact of the project on industry travel times and costs is not demonstrated in the application.
Bucketts Way - Road Rehabilitation - Krambach Village	The project will deliver improvements to a road which is regionally significant for tourism and communities of the Gloucester, Greater Taree and Great Lakes shires. Bucketts Way provides an alternate, sealed route to the Pacific Highway from just north of Raymond Terrace to Taree. The project will enhance the safety of road users through the upgrading of deficient sections of the route to a consistent standard.	The project barely meets the community and regional significance criterion. The project is located on an important regional route, shown by letters of support given by two other local governments. The Mid North Coast ACC confirms the routes importance, but the impact of the project on industry travel times and costs is not explained or shown by evidence in the application.  While the applicant claims that the project has strong safety benefits, it has not provided the evidence to support this claim.

Source: ANAO analysis of departmental records.

## Regional benefits

**2.65** The AusLink Act (which applied until June 2009) provided three explicit regional factors a Minister may rely upon in signing a Project Approval Instrument. These were:

- the extent to which the project is likely to improve the ability of regional industries and communities to compete in international, inter-State or inter-regional trade and commerce;
- the extent to which the project is likely to improve a road, railway or inter-modal transfer facility that is regionally significant; and/or
- the extent to which the project is likely to improve access for regional communities to services and employment.<sup>101</sup>

**2.66** Very few of the Project Approval Instruments subsequently prepared by the department in relation to projects approved for Strategic Regional Program funding by the then Minister for Local Government, Territories and Roads were prepared on the basis that the project would improve access for regional communities. A similarly small number of Instruments were prepared on the basis that the project was likely to improve the ability of regional industries and communities to compete in international, inter-State or inter-regional trade and commerce. By way of comparison, the most common regional factor relied upon in preparing a Project Approval Instrument for an approved project was that the project was likely to improve a road, railway or inter-modal transfer facility that is regionally significant. Specifically, the Project Approval Instruments prepared by the department for 83 per cent of projects submitted to the 2006 application round and approved in 2006 or 2007 relied upon this as the reason, or one of the reasons, as to why it was considered appropriate to sign the Instrument.

**2.67** Similar to the situation with claimed safety benefits, for a significant number of the projects where the Project Approval Instrument prepared subsequent to the Ministerial funding decision had indicated that it was appropriate to sign the Instrument on the basis, in whole or part, of their

---

<sup>101</sup> The second of these matters was excluded and the reference to 'regional' removed from the other two as part of amendments made to rename the AusLink Act as the Nation Building Program Act in June 2009 (see paragraph 1.7 and Table 2.1).

regional benefits, the earlier departmental assessments had questioned whether such benefits could reasonably be expected.<sup>102</sup>

## Application of current policy framework for Australian Government grant programs

**2.68** As noted, as of 1 July 2009, a new policy framework was introduced for the administration of grant programs by agencies subject to the FMA Act. The new framework involves:

- the continued application of the general requirements set out in the financial management framework regulating the expenditure of public money, which reflect sound principles that have evolved over time;
- new specific requirements under the financial management framework in relation to grants administration; and
- the CCGs issued under the FMA Regulations.

**2.69** The CCGs were issued in July 2009 by the Minister for Finance and Deregulation under FMA Regulation 7A. The Guidelines establish the grants policy framework and articulate the Government's expectations within which agencies subject to the FMA Act are to determine their own specific grants administration practices. Officials performing duties in relation to the administration of grants must act in accordance with the CCGs.<sup>103</sup> The CCGs are the core policy of the Commonwealth relating to grants administration and are in two parts:

---

<sup>102</sup> One such example related to the Project Approval Instrument signed in May 2007 to provide \$368 000 to Yarrabah Aboriginal Community for its Yarrabah Range Road Project. That application had been rated by the department as *Medium* and was not included in its proposed potential funding package for the 2006 funding round. However, the Minister advised the department that the project was approved for funding on 6 December 2006 (but did not advise the reasons for the approval). One of the Section 55 matters relied upon to support the May 2007 Instrument involved the extent to which the project is likely to improve a road, railway or inter-modal transfer facility that is regionally significant. The department prepared the Instrument on that basis notwithstanding that the 2006 departmental assessment was that: 'The project barely meets the criterion for regional and community significance. The applicant claims that as a result of the project travel times and safety would be improved along the route, but does not show the extent to which this would happen or which industries would benefit. The ACC supports this view advising that the project rates low on regional significance scale.'

<sup>103</sup> FMA Regulation 7A(4). The introduction of a statutory basis for the issuing of grant guidelines placed the administration of grant programs on the same footing as procurement activities, which are subject to the requirements of the Commonwealth Procurement Guidelines (CPGs). The CPGs are issued under FMA Regulation 7. Regulation 7(4) stipulates that officials performing duties in relation to the procurement of property or services must act in accordance with the CPGs.



- Part I outlines the legislative and policy framework for grants administration, including certain mandatory requirements of both officials and Ministers involved in grants administration; and
- Part II provides guidance on sound practice in grants administration that agencies should have regard to in implementing grant programs.

**2.70** Key requirements under the CGGs of agencies responsible for administering grant programs are:

- agencies are responsible for advising Ministers on the requirements of the CGGs, and *must* take appropriate and timely steps to do so where a Minister exercises the role of a financial approver in grants administration;
- agencies *must* develop grant guidelines for new grant programs, and make them publicly available (including on agency websites) where eligible persons and/or entities are able to apply for a grant under a program; and
- agencies *must* ensure that grant guidelines and related operational guidance are in accordance with the CGGs. [*Emphasis as per CGGs*]

**2.71** The regulations that amended the FMA Regulations to introduce the CGGs and associated grants-specific statutory obligations on approvers of grants contain a broad transitional and savings provision to provide sufficient opportunity for agencies to adjust their internal procedures, Chief Executive's Instructions, delegations and related materials for existing grant programs to ensure they are compliant with the CGGs.<sup>104</sup>

## **Applicability of the grants policy framework**

**2.72** Under FMA Regulation 3A, a grant (to which the CGGs and grant-specific FMA Regulations apply) is defined as an arrangement for the provision of financial assistance by the Commonwealth:

- (a) under which public money is to be paid to a recipient other than the Commonwealth; and
- (b) which is intended to assist the recipient achieve its goals; and

---

<sup>104</sup> Australian Government Solicitor, Legal Briefing 83, *Grants and Funding Programs: Legal Issues*, 17 November 2009, p. 2.

- (c) which is intended to promote one or more of the Australian Government's policy objectives; and
- (d) under which the recipient is required to act in accordance with any terms or conditions specified in the arrangement.

**2.73** FMA Regulation 3A(2) stipulates a number of arrangements that are taken not to be grants and to which, therefore, the CGGs do not apply, including:

- financial assistance provided to a State in accordance with section 96 of the Constitution;
- a payment to a State or Territory that is made for the purposes of the *Federal Financial Relations Act 2009* (FFR Act), including General Revenue Assistance, Other General Revenue Assistance, National Specific Purpose Payments and National Partnership Payments, and
- a payment that is made for the purposes of the *Local Government (Finance Assistance) Act 1995*.

**2.74** A grant to which the CGGs will apply may arise under:

- programs established by legislation and, in some cases, related legislative instruments;
- programs with a broad statutory basis, but which rely upon executive power for their implementation; or
- executive schemes (also known as discretionary grant programs) which are established and implemented wholly by decision of the Australian Government under authority of the executive powers provided by section 61 of the Constitution and for which specific legislative authority is not sought from the Parliament other than in relation to the appropriation of funding through the annual Appropriation Acts.

**2.75** As noted at paragraph 2.7, the Strategic Regional Program (now Off-Network Program) is an example of the second of the above arrangements in that the land transport legislation establishes a broad statutory basis for the Program, but the process by which funding recipients will be identified and selected is subject to executive decision.

**2.76** Grants made under Part 6 of the land transport legislation satisfy the definition of a grant set out in FMA Regulation 3A and are not an arrangement that is stipulated as being taken not to be a grant. Accordingly, all such grants

may be expected to be subject to the requirements of the CCGs. However, since 2009, the process adopted in respect to administering payments for State-delivered Off-Network projects has meant that LGA-delivered projects approved under Part 6 of the legislation are covered by the CCGs, whereas State-delivered projects are not.

## Administrative arrangements for State-delivered projects

**2.77** Under each funding round to date of the Strategic Regional Program/Off-Network Program, projects on State road and rail infrastructure have been able to be considered for funding. Prior to 2009, all projects approved for funding under Part 6 of the land transport legislation were covered by a Funding Agreement. This included projects where funding was being paid directly to State road authorities for work on a State road, as well as projects on a State road being delivered by a State authority but where the Funding Agreement was signed with an LGA.

**2.78** On 5 February 2009, the Council of Australian Governments announced<sup>105</sup> that the States had agreed to finalise by 1 March 2009 National Partnership Agreements for the Program that was formerly known as AusLink, within the Commonwealth's exiting funding envelope. For administrative reasons, the project schedules attached to the various MoUs between the Commonwealth and each State and Territory now include not only projects on the National Network that will be considered for approval under Part 3 of the land transport legislation<sup>106</sup>, but also Off-Network projects approved under Part 6 of the legislation that are to be delivered by the State.<sup>107</sup> For example, the MoU with Western Australia states as follows:

This Memorandum of Understanding provides the basis for a collaborative partnership approach between the Commonwealth and Western Australia for implementing projects in the Nation Building Program funded under Part 3 of the *AusLink (National Land Transport) Act 2005* (the 'Act') to develop the

<sup>105</sup> Special Council of Australian Governments Meeting Communique, *Nation Building and Jobs Plan*, Canberra, 5 February 2009.

<sup>106</sup> As was the case with the Bilateral Agreements that were made between the Commonwealth and each State and Territory in respect of National Network projects funded through AusLink 1 (2004-05 to 2008-09).

<sup>107</sup> In this respect, inclusion of a potential Part 3 National Network project in the Schedule to the relevant MoU does not guarantee funding for that project (see paragraph 2.8), whereas Part 6 Off-Network Projects are only added to the Schedule once they have received formal approval by the Minister under the land transport legislation.

National Land Transport Network in Western Australia. It also applies to projects funded under Part 4 and 6 of the Act where payment is made directly to Western Australia.

**2.79** As the MoUs are a National Partnership Agreement, payments made under them are National Partnership Payments made for the purposes of the FFR Act, thereby excluding them from the coverage of the CGGs (see paragraph 2.73). Consequently, despite being governed by a single Part of the land transport legislation, and being identified for funding through a similar process, the Off-Network Program now consists of a mixture<sup>108</sup> of grants that are subject to the CGGs (being those approved for projects delivered by LGAs) and grants that are not subject to the CGGs (being those approved for projects delivered by States).<sup>109</sup> Nevertheless, whilst not mandatory in respect to State-delivered projects being funded under the Off-Network Program, consideration of the principles outlined in the CGGs may assist to promote transparency and accountability in the effective administration of such projects.

**2.80** Against this background, the report of the 2008 *Strategic Review of the Administration of Australian Government Grant Programs*, which led to the introduction of the CGGs, identified that some programs had been delivered through grants so as to avoid the application of the Commonwealth Procurement Guidelines.<sup>110</sup> It may be contrary to the policy intent that underpinned development of a new grants administration framework for the payment arrangements adopted to result in that framework not being applied to transactions that are, in substance, a grant made for a specified project or activity and subject to terms and conditions imposed by the Commonwealth. In this respect, Finance has issued guidance to agencies on how to distinguish between a grant and other common types of financial arrangements. In the

---

<sup>108</sup> Based on advice provided to ANAO by the department in April 2010, 34 of 45 projects within the Off-Network Program (those being delivered by the States) have been excluded from the coverage of the CGGs by virtue of the administrative arrangements that have been adopted. For the remaining 11 projects (being delivered by local government), program guidelines have not been published (notwithstanding the requirement under the CGGs that this be done).

<sup>109</sup> The Nation Building Program MoUs were finalised in advance of the CGGs being promulgated, meaning the adverse effect of including Part 6 projects within the coverage of the MoUs would not have been known to the department at the time the MoUs were drafted. The different administrative frameworks now applied to Part 6 projects depending upon whether the funding recipient is a State or an LGA is discussed further at paragraph 3.71.

<sup>110</sup> Mr Peter Grant PSM, *Strategic Review of the Administration of Australian Government Grant Programs*, 31 July 2008, p. 3.

interests of achieving greater commonality in the treatment of like payments, there would be benefit in Finance also considering and, as appropriate, advising the Finance Minister, on the merits of re-examining the interaction of the new grants framework and these types of grant payments to States and Territories made through mechanisms established under the FFR Act.

## **Promoting the principles of transparent and accountable decision-making**

**2.81** As noted, with effect from 1 July 2009, FMA Regulation 9 prohibits an approver from approving a spending proposal unless satisfied, after undertaking such inquiries as are reasonable, that the proposed expenditure is efficient, effective and ethical use that is not inconsistent with the policies of the Commonwealth.<sup>111</sup> The CGGs outline that the guidelines applying to a granting activity are one of the policy requirements relating to grants administration.

**2.82** The stated intent of the CGGs is to improve the transparency and accountability of grants administration through mandated decision-making processes and timely public reporting.<sup>112</sup> For example, the CGGs outline an expectation that grant guidelines will be made publicly available. In respect to the content of guidelines, the CGGs state that:

Clear, consistent and well-documented grant guidelines are an important component of effective and accessible grants administration. A single reference source for policy guidance, administrative procedures, appraisal criteria, monitoring requirements, evaluation strategies and standard forms, helps to ensure consistent and efficient grants administration.<sup>113</sup>

**2.83** As noted, the CGGs also set out a number of expectations in relation to the form and content of grant program guidelines (see paragraph 2.16), including that the guidelines effectively communicate to potential funding recipients all criteria that will be applied in the selection of funded projects.

**2.84** In July 2009, general Internal Guidelines and Notes on Administration were issued for administering projects (including residual Strategic Regional

---

<sup>111</sup> Up to 30 June 2009, the obligation was to undertake such inquiries as are reasonable to be satisfied that the proposed expenditure was in accordance with the policies of the Commonwealth and would make efficient and effective use of the public money.

<sup>112</sup> Commonwealth Grant Guidelines, op. cit., Foreword.

<sup>113</sup> Commonwealth Grant Guidelines, op. cit., p. 22.

Program projects) funded under Part 6 of the land transport legislation where proponents are LGAs (as noted, these projects are subject to the CCGs, but not those being delivered by the States). However, neither the guidelines applying to LGA-delivered projects, or the separate Notes on Administration<sup>114</sup> for LGA-delivered projects have been published, whereas the Notes on Administration for State-delivered projects have been published.

**2.85** The guidelines for LGA-delivered projects, the Notes on Administration for LGA-delivered projects and the Notes on Administration for State-delivered projects each require officials assessing a Project Proposal Report (PPR) submitted by a project proponent to provide justification for project approval and/or funding (or not) of the project in line with Part 6 of the land transport legislation and the requirements of the FMA Regulations. Because Part 6 sets out eligibility and appropriateness factors in non-exclusive terms, transparent and accountable administration of the Off-Network Program would be promoted by changes to the legislation or for the provisions of the legislation to be supplemented with published guidelines that identify in a straightforward and easily understood form all criteria that will be applied in determining whether a project will be funded.

**2.86** In April 2010, DITRDLG advised ANAO that:

The Report states that program Guidelines have not been published, applicable to Local Government Authority projects. The Report further states that this is a requirement of the Commonwealth Grant Guidelines (CGGs). This statement is correct, however the CCGs did not come into effect until 1 July 2009 long after funding was announced for these projects. Although the CCGs represent 'best practice' in grants administration they do not apply retrospectively. The Department will ensure it is compliant with the CCGs if and when further funding is announced for the Off-Network Program.

**2.87** In this respect, ANAO notes that the CCGs apply to the administration of all grant programs from 1 July 2009, including those that were in existence as at 1 July 2009. As noted at paragraph 2.71, the regulations that amended the FMA Regulations to introduce the CCGs and associated grants-specific statutory obligations on approvers of grants contain a broad transitional and

---

<sup>114</sup> The Notes on Administration are stated as applying to the administration of a project from the time the Funding Agreement's clauses are signed by both parties. Nevertheless, they also include guidance on the project appraisal and approval framework. However, they do not outline any eligibility or assessment criteria but, rather, refer LGAs to the non-exhaustive factors the Minister may consider under section 55 of the Nation Building Act.

savings provision to provide sufficient opportunity for agencies to adjust their internal procedures, Chief Executive's Instructions, delegations and related materials for existing grant programs to ensure they are compliant with the CCGs. In that context, ANAO further notes that the submission and assessment of PPRs under the Off-Network Program was continuing after the CCGs were issued.

## Recommendation No.1

**2.88** ANAO *recommends* that, consistent with recent changes to the financial management framework aimed at improving the transparency and accountability of decision-making processes for the awarding of grants, the Department of Infrastructure, Transport, Regional Development and Local Government examine and advise Ministers on options for enhancing and/or supplementing the existing provisions of Part 6 of the *Nation Building Program (National Land Transport) Act 2009* in order to provide certainty and public disclosure of the criteria that will be applied in determining whether it is appropriate for a project to be funded under that Part of the legislation.

### *DITRD LG response:*

**2.89** Agree. A review of the *Nation Building (National Land Transport) Act 2009* is not in the current work schedule for the department and this recommendation will be actioned when a review next occurs.

### 3. Conduct of the 2006 application and assessment processes

---

*This chapter examines the application and assessment processes that were applied during 2006 as a result of the March 2006 public call for applications for \$127 million in available Strategic Regional Program funding. The 2006 application round has been the only general call for applications held to date in respect to funding under Part 6 of the land transport legislation. All of the projects approved in the 2006 funding round announced in December 2006 and most of the projects approved for funding through the 2007 Budget funding round in May and June 2007 were drawn from applications submitted to the March 2006 application round.*

#### Introduction

**3.1** Proportionality and value for money are important principles in grants administration, meaning that key program design features and related processes should be commensurate with the scale, nature, complexity and risks involved in the granting activity. In that context, factors that should be considered in selecting the appropriate application and assessment process will include:

- the likely number and type of applicants;
- the type of projects or activities for which funding may be sought;
- the value of grant that individual applicants will be able to apply for;
- balancing a desire to maximise access to a program with the need to maintain appropriate standards of public administration and financial oversight;
- the nature of inquiries that will be required in order to appropriately address the risk profile associated with potential applications, which may vary between different types of applicants and projects; and
- the need for timeliness in the decision-making process, while maintaining rigor and equity.

**3.2** Accordingly, an early and important consideration in the design of a grant program is establishing how to structure the process by which potential funding recipients will be able to access the program. In that respect, the use of structured and competitive funding rounds as the basis for allocating grant funding can offer benefits such as:



- allowing for a stronger and more consistent comparison of the relative merits of proposed projects;
- in the interests of equity of access, assisting to ensure that the communication of opportunities to access funding is equitable; and
- avoiding some of the perceptions that projects may be approved for funding for party political purposes rather than on their merits, particularly in the context of a pre-election period.<sup>115</sup>

**3.3** As noted at paragraph 2.16, the benefits of competitive funding rounds are recognised in the recently released CGGs<sup>116</sup>, with the CGGs advising that competitive, merit-based selection processes based upon clearly defined selection criteria should be used for all grant programs, unless specifically agreed otherwise.<sup>117</sup>

## **Approach to be taken to the Strategic Regional Program**

**3.4** As indicated earlier, originally, all funding under the Strategic Regional Program was to be competitively allocated (see paragraphs 1.2 to 1.5). Specifically, the 2004 AusLink White Paper announced that:

...\$400 million over four years will be available for land transport projects of regional economic and social significance. This funding will be available to local councils and will be competitively allocated.<sup>118</sup>

**3.5** Consistent with that policy statement, in January 2005, the then Government wrote to councils and ALGA advising that \$100 million would be made available annually over the four years from 2005-06 to 2008-09 as part of the R2R program for projects of strategic regional importance. The Government further advised that the strategic regional project funding would be competitively targeted.

**3.6** In the May 2005 Budget, the then Government confirmed that it would invest \$1.35 billion in the AusLink R2R program. However, as discussed, the amount allocated to projects of strategic regional importance was reduced

<sup>115</sup> ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, op. cit., pp. 28-29.

<sup>116</sup> The CGGs took effect on 1 July 2009. Although not in place at the time the Strategic Regional Program was being developed and implemented, many of the principles outlined in the Guidelines had previously been promulgated in ANAO's May 2002 Administration of Grants Better Practice Guide.

<sup>117</sup> Commonwealth Grant Guidelines, op. cit., p. 29.

<sup>118</sup> Department of Transport and Regional Services, AusLink White Paper, op. cit., p. xiii.

from the \$400 million foreshadowed in the White Paper to \$120 million (see paragraph 1.14). Of the \$120 million allocated in the May 2005 Budget for projects of strategic regional importance, \$93.185 million had already been allocated to projects by the then Government as Coalition election commitments in the context of the 2004 Federal election (discussed further at paragraphs 1.15 and 6.7 to 6.19). This left \$26.815 million available to be competitively allocated.<sup>119</sup>

**3.7** In May 2005, the department was asked to draft letters to be sent post-Budget under Ministerial signature to each LGA advising that:

The Government has accelerated the implementation of the strategic programme with the announcement of an initial series of priority projects totaling \$93.185m. As the remaining funds do not become available until 2007-08 and 2008-09, it is the Government's intention to call for competitive bids in 2006-07.<sup>120</sup>

**3.8** During late 2004 and 2005, the then Minister for Transport and Regional Services sought additional funding to supplement the \$26.815 million left from the original allocation to enable a credible competitive round to be conducted under the Strategic Regional Program (see, for example, footnote 71). No additional funding was allocated to the Program until November 2005, when Senior Ministers agreed to an additional \$100 million being made available to enable a competitive call for project bids under the Program.

**3.9** In announcing the additional funding on 10 November 2005, the then Minister for Local Government, Territories and Roads stated that it was expected that applications would be called in mid to late February 2006.

## The application process

**3.10** On 2 March 2006, the then Government announced that applications for the \$126.8 million in unallocated Program funding were being sought, with

---

<sup>119</sup> A \$125 000 commitment announced in the 2004 election campaign for a project on Bribie Island in Queensland was not ultimately approved for funding as an actual project could not be identified. However, the availability of this funding for re-allocation was not finalised until mid-2007, some 18 months after the 2006 public call for applications to a competitive funding round (see paragraph 6.17).

<sup>120</sup> A different letter was sent depending on whether the LGA had already submitted an unsolicited proposal for funding under the strategic component of the program. Those Councils that had already submitted an unsolicited proposal were advised that their project submission would remain current and that they would be given an opportunity to update their proposal at an appropriate time.

a closing date of 1 May 2006.<sup>121</sup> The then Minister for Transport and Regional Services and then Minister for Local Government, Territories and Roads jointly announced that funds would be distributed on merit, based on the quality of submissions received, and that successful projects would be announced later in 2006.

**3.11** On 3 March 2006, the then Minister for Local Government, Territories and Roads wrote to LGAs<sup>122</sup> providing them with a fact sheet on the program, the Program Guidelines, an electronic funding application form, instructions for lodging an electronic application and a draft funding agreement. LGAs were advised that applications would close on 1 May 2006 and that:

- projects would be assessed on their competitive merits against standard criteria and funding would be allocated accordingly;
- the \$127 million in available funding would be split into two notional funding pools for Large and Small Projects (the Guidelines advised that the amount notionally allocated to Large Projects was some \$107 million and some \$20 million to Small Projects);
- the Program had a strong emphasis on shared funding and, accordingly, funding contributions were expected from other stakeholders involved with each proposal;
- all funding would be capped in current year dollars and would be paid directly into council bank accounts; and
- successful proponents would be required to enter into a funding agreement in the terms of the draft generic funding agreement.

**3.12** In response to the 3 March 2006 correspondence inviting project submissions, the Tasmanian Minister for Infrastructure advised the then Minister for Local Government, Territories and Roads that:

The timing of the latest increase in funding and the short timeframe to the closing date for applications of 1 May 2006 does not provide enough time for consideration and for the budgetary processes to be completed. From a State

---

<sup>121</sup> The Hon Jim Lloyd MP, Minister for Local Government, Territories and Roads and the Hon Warren Truss MP, Minister for Transport and Regional Services, *Australian Government Calls for Submissions for \$126.8 million in Strategic Regional Transport Projects*, Joint Media Release L18/2006 Joint, 2 March 2006.

<sup>122</sup> At the same time, the then Minister also wrote to ALGA, State local government associations and State roads ministers providing them with a copy of the Program Guidelines.

Government perspective, it is disappointing that the Australian Government did not consult with the Tasmanian Government to understand the transport planning and budgetary process which needs to take place to ensure the best outcomes are to be provided.

**3.13** Similarly, the Northern Territory Minister for Infrastructure and Transport commented that the 'timeframe for submissions is very tight considering the need to consult with stakeholders and the finalisation of any submissions'. The tight timeframe could have been expected to have an adverse effect on the ability of applicants to:

- develop robust project proposals, including well defined project timeframes, scopes and cost estimates, particularly given the Program Guidelines stipulated that proposed works must be able to be completed by the first quarter of 2009, with final reports (other than audited statements) to be lodged by 20 June 2009 (see further at paragraph 3.39); and
- confirm the availability or otherwise of partner funding, particularly given the Program Guidelines required that all applications for projects on State infrastructure identify partner funding contributions of at least 50 per cent of total estimated project costs and that all other Large Projects required partner funding of at least 30 per cent. Applicants were required to provide firm, written commitments from other contributing stakeholders as part of their application.

**3.14** However, there was no documented consideration of the potential for the short notice of the application round being conducted and the timeframe stipulated for the lodging of applications to hinder the capacity of potential applicants to lodge compliant applications in relation to projects that were, nonetheless, considered to be of strategic importance to their region. Nor was there any documented consideration of the merits of introducing processes to enable that risk to be mitigated, while maintaining the integrity of the application process, so as to avoid constraints on meeting the underlying objective of the program.

**3.15** In this respect, there was also no evidence to suggest that, in determining the timing of the application round, consideration had been given to the annual budgetary processes of LGAs and State Governments. However, there is evidence of these timing considerations having caused difficulties for some potential applicants (see, for example, Table 3.1).

**Table 3.1****Case study illustrating the difficulties faced by potential applicants by the timing of the 2006 call for applications**

The City of Playford in South Australia submitted an application for the Curtis Road Upgrade project, which related to a \$3.85 million project to reconstruct and upgrade a single lane rural 2.5 kilometre section of Curtis Road between Andrews Road and Coventry Road. The South Australian Local Government Transport Advisory Panel (SALGTAP)<sup>1</sup>, wrote to the department on 26 April 2006 advising that this project was its highest priority for Strategic Regional Program funding. The application sought Program funding of \$3.1 million, with a proposed proponent contribution of \$750 000 (19.5 per cent of total estimated project costs). On 2 June 2006, the application was deemed ineligible by the department due to the requirement for works on State roads to have 50 per cent partner funding.

On 23 June 2006, the department received a telephone call from the City of Playford asking if it could send an updated application as it was now able to make a 50 per cent contribution following confirmation of the 2006-07 Council budget. This was refused. On the same day, Council wrote to the department advising that:

At the time of applying Council could only commit to a contribution of \$750,000. Council's 2006-07 budget process has just been finalised and Council has been able to increase its contribution to 50% of the estimated cost of this crucial project. This has been achieved through increased borrowings.

I respectfully request that you consider City of Playford's application in light of this significant increase in contribution from Council.

On 27 June 2006, it was decided that the department would not accept the change of contribution and the assessment of the application as ineligible was confirmed. The project has not received any Strategic Regional Program funding. Rather, a reduced scope of works has been funded through Council's own resources and the South Australian Special Local Roads Program.<sup>2</sup>

**Notes:**

1. The LGTAP was established by the South Australian Local Government Association to consider submissions for strategic road funding such as through the South Australian Special Local Roads Program and the strategic pool of Roads to Recovery funding. The department was advised that: 'When assessing the applications received the LGTAP considered the priority weighting given by the regional LGAs, the relative AusLink funding criteria and considered evaluation of the merit of the application in the context of state wide importance and community and economic benefit.'
2. On 13 March 2007, the City of Playford agreed to expenditure of up to \$1.5 million to award a single contract to complete the upgrade of Curtis Road between Stebonheath Road and Andrews Road. This involved about half of the section of road proposed to be upgraded through the project for which Strategic Regional Program funding was sought. It had been determined through the City Plan process to upgrade that section of Curtis Road in the 2006-07 financial year. In the 2006-07 city plan budget, Council approved expenditure of \$962 000 towards the Curtis Road upgrade works associated with the Playford North land development, and the remaining \$538 000 required to complete this project was being funded through the Special Local Roads grant funding program.

Source: ANAO analysis of departmental records.

**3.16** The tight timeframe between applications being invited and the closing date also meant that there was an increased risk of project proposals, and/or some of the supporting material, not being received by the closing date of 1 May 2006. In addition, some LGAs had queried the firmness of the closing date. Notwithstanding these circumstances, the department did not develop any procedures to govern these likely risks prior to the calling of applications or prior to the closing date for applications. Rather, on 8 May 2006 (one week

after applications had closed), the department advised the then Minister that the approach it was adopting was that:

- supporting material referenced in the application, received after 1 May 2006 (but post-marked 1 May 2006 or earlier) would be accepted as part of the application and used in the assessment process;
- supporting material not referenced in the application and post-marked after 1 May 2006 would not be part of the assessment process, but would be placed on file; and
- where applications received exhibited technology difficulties with the application form, the proponent would be provided with 24 hours to re-submit the material that had already been prepared.

**3.17** Departmental records state that the Minister had previously agreed to:

- an extension to 2 May 2006 for Queensland Councils given the public holiday in that State on 1 May 2006 (a matter not previously considered when the application due date was determined); and
- an extension for submission of applications by the Northern Territory Department of Infrastructure, due to cyclonic activity (this application was received on 3 May 2006).

## **Assessment stages and timeframe**

**3.18** In total, the department accepted for assessment 495 applications seeking \$1.04 billion in Strategic Regional Program funding towards projects with a total estimated cost of \$2.02 billion. These applications were assessed in stages, with separate assessment procedures being developed for Large Project applications and Small Project applications.

**3.19** The then Minister for Local Government, Territories and Roads was regularly briefed on the assessment of applications, as follows:

- the first briefing (on 8 May 2006) sought the Minister's agreement to a number of initial Program assessment parameters and procedural issues concerning the circumstances in which applications received after 1 May 2006 would be accepted;
- on 19 May 2006, the department provided information on the number of applications received, together with a list of all projects for which an application had been received by the closing date. The department sought the then Minister's agreement to the assessment of Large Project

applications being undertaken first<sup>123</sup>, and to the issuing of a press release. The Minister further agreed that eligible Large Project applications would undergo an Initial Review against the criteria specified for those applications in the Guidelines; and

- a third update was provided on 12 July 2006 outlining the prioritisation of eligible Large Projects following the Initial Review, and advising that Detailed Assessments would be undertaken on those projects rated as *High* and *Medium* following the Initial Review. The Minister agreed that Large Project applications rated as *Low* against the criteria in the Initial Review would not proceed to a Detailed Assessment and, therefore, would not be considered further for funding.

**3.20** These briefings were copied to the portfolio Minister, the then Minister for Transport and Regional Services. Further briefings on the outcomes of the departmental assessments were provided to both Ministers on 11 August 2006 (the outcome of the Detailed Assessment of Large Projects); 17 August 2006 (an addendum to the 11 August 2006 brief); and 13 October 2006 (the outcome of the assessment of Small Projects).

**3.21** Departmental assessments of both Large and Small Projects were completed one month later than had been planned (11 August 2006 rather than 15 July 2006 for Large Projects and 13 October 2006 rather than 16 September 2006 for Small Projects). This delay was extended by the time taken by Ministers in making funding decisions. Specifically:

- funding decisions for Large Projects were planned to be made by 31 July 2006, allowing three months from the closing of applications for the department to appraise, and Ministers to decide on, projects that were required to be developed and submitted over a two month period. However, funding decisions for Large Projects were not made until 2 November 2006 (three months longer than planned and an overall elapsed time of six months from the closing of applications); and
- funding decisions for Small Projects were planned to be made by 30 September 2006, allowing five months for the department to

---

<sup>123</sup> This was recommended due to the number of Small Project applications well outnumbering Large Project applications, with the department proposing that assessment of the Large Project applications first could inform decisions about options for revising the notional funding allocations for Large and Small Projects set out in the Guidelines (see paragraph 4.18).

appraise, and Ministers to decide upon, projects that were required to be developed and submitted over a two month period. However, funding decisions for Small Projects were not taken until 6 and 19 December 2006, a delay of more than two months (with an overall elapsed time in the order of seven and half months from the closing of applications).

## Recommendation No.2

**3.22** ANAO *recommends* that, for future application-based grant programs, the Department of Infrastructure, Transport, Regional Development and Local Government assess and advise decision-makers on application timetables that maximise, to the extent practicable, the opportunity for potential applicants to access the program and provide sufficient time for robust applications to be developed and submitted.

*DITRDLG response:*

**3.23** Agree in principle and the department notes that this recommendation is not applicable to the current Off-Network Program.<sup>124</sup>

## Consequences of the Large/Small Project distinction

**3.24** The Program Guidelines distinguished between Large and Small Project applications on the basis of the amount of Strategic Regional Program funding that was being sought for the project, not on the size of the overall project to which an Australian Government funding contribution was being sought. A similar issue was raised by ANAO in Audit Report No.14 2007-08 which examined the Regional Partnerships Program. In that case, the amount of Australian Government funding being sought (rather than the total project cost) was used to determine the extent of due diligence procedures that should be applied to applications (such as whether to conduct project viability assessments).<sup>125</sup>

---

<sup>124</sup> DITRDLG currently administers a number of grant programs that are applications-based, and it is not uncommon for new applications-based grant programs to be established. Further, Part 6 of the land transport legislation does not prevent the current, or a future, government deciding to again operate the Off-Network Program as an applications-based program. Accordingly, this recommendation is of general relevance to the department, as is recognised by the department in its formal comments on the report (see paragraph 67).

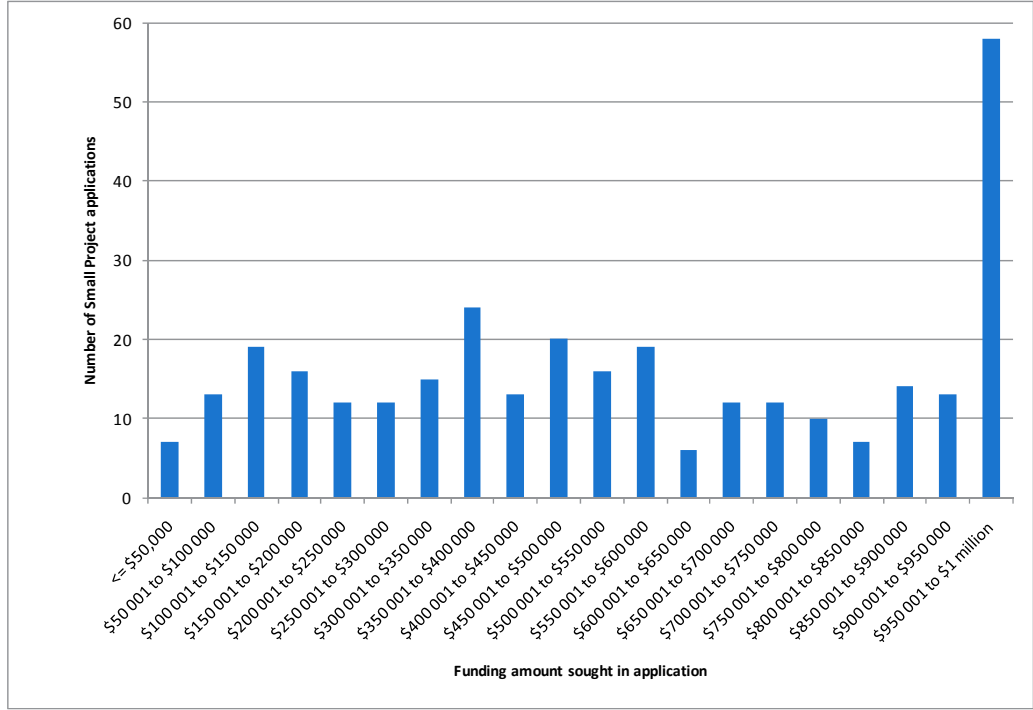
<sup>125</sup> See, for example, ANAO Audit Report No. 14 2007-08, Volume 2—Main Report, op. cit., pp. 424-425.



**3.25** In respect to the Strategic Regional Program, there are indications that the arbitrary nature of the distinction made between Large and Small projects influenced some applicants to apply for \$1 million or less in Australian Government funding for a project so as to avoid the more rigorous evaluation criteria that were expected to be applied to projects seeking more than \$1 million. This is illustrated by Figure 3.1, which shows that, of the 318 projects that satisfied the Small Project definition, a significant number (58 projects or 18 per cent) sought between \$950 001 and \$1 million in Program funding.

**Figure 3.1**

**Small Project applications: Strategic Regional Program funding sought**



Source: ANAO analysis of departmental records.

**Structuring applications to avoid being assessed against the Large Project eligibility and assessment criteria**

**3.26** Documentary evidence further indicated that distinguishing between Small and Large Projects on the basis of the Program funding being sought, rather than the actual scope of works proposed and the project’s total estimated cost, led to some applicants structuring their applications so as to avoid the more stringent criteria for Large Projects.

**3.27** For example, Nannup Shire Council in Western Australia applied for \$800 000 towards the estimated \$1.6 million cost to replace a low level crossing of the Blackwood River with a high level bridge (known as the Jalbarragup Bridge project). The application was rated *High* by the department against the Small Project assessment criteria. Although not approved in the 2006 round, the project was subsequently approved for funding in May 2007, with the funding being fully paid to Council in June 2007. Council meeting records of May 2007 record the following in relation to why Council applied for \$800 000 of Program funding, rather than a higher amount:

Projects over \$1 million were subject to far more stringent selection criteria, which in the instance of the two Nannup projects, was possible for Mowen Road<sup>126</sup>, however not for Jalbarragup Bridge. By this it is meant that full design details, pre planning, feasibility etcetera all needed to be undertaken, which they had been for Mowen Road. The Jalbarragup Bridge submission was based primarily on the dangers of the crossing, and the detail required to make a submission of over \$1 million was not available. The submission hence had to be kept under that amount for any chance of success.

**3.28** In July 2009, Council advised the department that the most recent total cost estimate for the Jalbarragup Bridge project was between \$4 million and \$4.5 million and that this would leave a budget shortfall of between \$1.2 million and \$1.7 million. Council further advised that:

There still remains significant doubt as to obtaining the shortfall in funding for this project and the attached letter from the State Minister for Transport refers. Council will be lobbying in the most strongest manner to have the required funding shortfall addressed and if not successful in the coming months the

---

<sup>126</sup> Shire of Nannup also submitted an application to the 2006 funding round seeking funding of \$4.772 million toward total estimated project costs of \$15.497 million for the Mowen Road project. That application was rated *High* against the Large Project assessment criteria by the departmental assessment, but was not approved for funding in the 2006 round. The Mowen Road project was subsequently approved in the 2007 Budget round and the \$4.772 million in Program funding was paid to Council in full in June 2007. However, the application had been based largely on a dated upgrade study for the full 51 kilometres of unsealed road between Margaret River and Nannup, completed in May 1996, which (together with other anomalies) had not been appropriately considered by the department in rating the Project as *High* (with the risk of the project not being completed by June 2009 being assessed as *Low*, and the construct cost risk being assessed as *Low* to *Medium*). In July 2009, Council advised the department that the estimated total cost to complete the whole project had escalated to \$31.82 million, of which \$16.32 million was still unfunded. In September 2009, Council advised the department that there was a minimal amount of Federal funding remaining, but that the project was still yet to be completed. Council advised that the project would continue until completed with State funding, of which there was now a \$6 million allocation for 2010-11. Projects approved in the 2007 Budget round were required to be completed by 30 June 2010.

project many be abandoned and funds returned which would be an extremely disappointing outcome.

**3.29** No action was taken by the department at that time in response to this advice. At the time ANAO audit fieldwork was concluded (November 2009), the most recent report from Council (as at 31 August 2009) stated that planning and design work (being undertaken by the State Department of Main Roads) was not expected to be completed until 31 December 2009; a response had not yet been received from the Heritage Council of Western Australia in respect of approval for the demolition of the existing old bridge structure; and tenders had not yet been called (such that it was not known whether the existing budget was sufficient). Of the \$800 000 paid to Council in June 2007, \$11 595 had been spent on the project as at 31 August 2009.

**3.30** In March 2010, the department advised ANAO that Council had submitted a request for the State Government to fund the shortfall, and that it was working closely with the funding recipient on an agreed approach, regardless of whether the additional funding is approved. In April 2010, the department provided ANAO with a copy of correspondence it had received from Council on 11 March 2010 advising that Main Roads WA expected to have a decision on a request for additional funding of \$1.5 million later the following week. As at 9 April 2010, the department had not made any further inquiries in relation to the outcome of the State Government's funding deliberations, with the department advising that the 11 March 2010 advice represented its most recent correspondence with Council on the matter.

**3.31** It was also a common practice for Councils to structure applications relating to a larger overall project into a series of Small Project applications in order to avoid being considered against the Large Project criteria (including the mandatory minimum co-funding of 30 per cent for projects on local roads).

**3.32** For example, Bourke Shire Council submitted eight separate projects for various works on the road that links Bourke, Louth, Cobar and Wilcannia. The projects sought between \$878 250 and \$999 750 in Program funding each, with no proponent or other partner contributions being nominated for any of the eight projects. In aggregate, Council was seeking \$7.75 million from the Australian Government but, by structuring each application as a Small Project, avoided the requirement that Large Projects on local roads include partner funding contributions of at least 30 per cent towards project costs.

**3.33** A further example of this practice is set out in Table 3.2.

**Table 3.2**

**Case study of the effect of defining Small Projects based on the amount of funding being sought rather than the scope of overall works proposed**

Tenterfield Shire Council submitted ten separate applications seeking a total of \$8.315 million in funding towards estimated total project costs of \$10.065 million. There were nine road works projects and one bridge project (involving the replacement of four bridges). All projects were located on the Mount Lindesay Road between Legume and Woodenbong in New South Wales.

In December 2004, the New England/Northwest Group of the Institute of Public Works Engineering Australia (IPWEA) had formed a working party to prepare submissions for the anticipated Strategic Regional Program. The working party used the *National Guidelines for Transport System Management in Australia* as a reference in preparing each Council submission. Each Council of this division of the Institute, plus the members of the Local Government Association within the region, were invited to submit projects for consideration of support from the division. In total, 14 submissions were received with the sixth highest priority project being reconstruction of a 10.2 kilometres section of Woodenbong to Legume road at an expected cost of \$25 million. This information had been provided to the department by another applicant to the Program (Armidale Dumaeresq Council, which had the seventh highest priority project in that division), but was not taken into account in the assessment of the various projects submitted by Tenterfield Shire Council for works on the Mount Lindesay Road.

The nine road works projects were each categorised as Small Project applications, as they had each sought between \$150 000 and \$940 000 in Program funds towards estimated project costs that ranged from \$150 000 and \$1.15 million.<sup>1</sup> Taking this approach meant that Council was not assessed against the Large Project criterion that required a minimum contribution of 30 per cent where the road is the responsibility of local government. Similarly, Minutes of Council's 18 May 2007 Ordinary Meeting state that, in July 2006, a further submission had been sent to the department requesting amendment of the bridge project application to four individual bridge replacements ranging in value from \$850 000 to \$990 000. The meeting Minutes state that:

This amendment would keep the projects under the \$1 million cap for full funding under the AusLink program and therefore not rely on RTA co-funding.

Each of the nine Small Projects was rated *Medium* by the department against the Small Project assessment criteria. Of these, three were approved for funding as a result of the 2006 round (the then Minister did not identify the basis on which he had determined that these three projects should be approved for funding). The remaining six projects, which had also been rated *Medium*, did not at that time or subsequently receive any funding under the Program, although other projects rated *Low* by the department did receive funding.

Note 1: The bridge project was a Large Project and was not subject to a detailed assessment by the department because the Initial Review rated the project as *Low*. That project proposal sought Australian Government funding to replace four timber bridges at a total estimated cost of \$4.65 million. Funding of \$850 000 for the replacement of two of the timber bridges was later approved in the 2007 Budget round.

Source: ANAO analysis of departmental and Council records.

## Assessment of program eligibility

**3.34** The legislated eligibility criteria under Part 6 of the land transport legislation relate to the types of projects that may be funded. Broadly, the legislation provides that projects that may be funded are:

- the construction of roads, railways and intermodal facilities in a State or Indian Ocean Territory that are not included in the National Land Transport Plan;
- the maintenance of roads in a State or Indian Ocean Territory that are not included in the National Land Transport Plan or are in areas for which no local government authority has responsibility; and
- the acquisition or application of technology that will, or may, contribute to the efficiency, security or safety of transport operation in a State or Indian Ocean Territory.

**3.35** Similarly, the Program Guidelines published in March 2006 outlined the land transport activities and proponent organisations that would be eligible to receive funding. The Guidelines were included with a package of material provided by the then Minister to all LGAs, States and Territories, including an electronic funding application form, instructions for lodging an electronic application and a draft Funding Agreement. This covering material included 'at a glance' information on the Program, including advising (consistent with the Guidelines and AusLink Act) that:

Eligible projects include works on roads, including those in unincorporated areas, on railways and for inter-modal facilities and new technology solutions to improve land transport. Projects on the AusLink National Land Transport Network are not eligible.

Projects must be able to proceed and be finished by the first quarter of 2009.

**3.36** In addition, under the heading 'Eligibility criteria' the document stated as follows:

To be eligible, candidate projects generally must:

- include funding contributions from the proponent council and other parties
- arise from demonstrated collaborative regional planning processes and have broad regional industry and government support
- enhance the ability of regional industries and communities to compete in the national and global marketplace, as well as strengthen connectivity for smaller communities
- improve regionally significant transport infrastructure.

State road and rail infrastructure can be considered for funding, but only local councils can apply. Where state government controlled infrastructure is

involved, the Australian Government will require a matching contribution of at least 50 per cent of costs from other partners.

**3.37** This additional guidance, which did not discriminate between applications relating to Large and Small Projects, was potentially confusing to applicants as it contained inconsistencies with the provisions of both the AusLink Act and the Program Guidelines. In particular:

- the use of the term ‘generally must’ is inconsistent with the concept of an eligibility criterion, noting that the Program Guidelines did not outline any circumstances in which the published eligibility criteria could be waived;
- the Program Guidelines stated that council-owned and managed infrastructure would not require a contribution from other parties for Small Projects;
- for Large Projects, the Guidelines included an assessment (not eligibility) criterion as to whether the proposed project arose from demonstrated collaborative regional planning processes. No such criterion was included for Small Projects; and
- the AusLink Act provided that, in deciding whether to approve a project, the Minister may consider the extent to which the project is likely to improve the ability of industries and communities to compete in trade and commerce. Similarly, for Large Projects, the Guidelines included an assessment (not eligibility) criterion as to whether the proposal demonstrated how the project enhanced the ability of regional industry and communities to compete in the national and global marketplace through improved connectivity to export-related transport networks. There was, again, no equivalent criterion for Small Projects.

**3.38** The Guidelines included separate advice on eligibility—see Table 3.3.

**Table 3.3****Eligibility criteria set out in the 2006 Strategic Regional Program Guidelines****2. ELIGIBLE ACTIVITIES**

- Construction and maintenance works on roads and bridges not on the National Land Transport Network;
- Construction and maintenance for roads in unincorporated areas;
- Construction works on rail projects and inter-modal facilities not on the National Land Transport Network; and
- Application of technology towards the improvement of land transport networks.

**Maintenance**—Maintenance works may be supported but priority may be given to capital works proposals over submissions for maintenance works.<sup>1</sup>

**Detailed planning/studies/pre-construction activities**—The Government may consider these activities for funding, particularly if they are specific activities targeted to a project able to be delivered by June 2009. Priority may be given to capital works proposals over submissions seeking assistance solely for pre-construction activities.

**Non-eligible activities**

- Works on National Land Transport Network Corridors;
- Urban Public Transport;
- Cycle paths and walkways (unless part of an eligible project); and
- Any proposed activity not directly related to land transport.

**3. ELIGIBLE ORGANISATIONS**

- LGAs;
- Groups of LGAs;
- States and the Northern Territory Government on behalf of unincorporated areas;
- Indian Ocean Territories; and
- Australian Capital Territory Government.

**State road and rail infrastructure**—State and Northern Territory road and rail infrastructure is eligible for funding but only LGAs are eligible to apply.

States and the Northern Territory Government are only eligible to apply in relation to works in areas not governed by local councils, i.e. unincorporated areas.

Proposals promoted by the private sector and community groups will need to be nominated and managed by LGAs.

Note 1: Maintenance, in relation to a road, railway or inter-modal transfer facility, includes works and repairs to keep the road, railway or inter-modal facility in a safe and useable condition.

Source: *Strategic Regional Program—Guidelines for Applicants*, 2 March 2006.

**3.39** In addition to the criteria set out in Table 3.3, further eligibility criteria were also included within other parts of the Guidelines relating to the assessment criteria and the application process. Specifically:

- Part 3 of the Guidelines ('Application Process') stated that applicants 'must submit their applications on the electronic application form' and

also included an eligibility criterion requiring applications to be received by 1 May 2006;

- Part 2 of the Guidelines ('Project Assessment Criteria') included a requirement that funded projects be capable of being completed by the first quarter of 2009, with final reports (other than audited statements) to be lodged with the department by 20 June 2009. This was similar to the guidance in the 'at a glance' covering material that 'projects must be able to proceed and be finished by the first quarter of 2009'; and
- Part 2 of the Guidelines also included various mandatory requirements in relation to partner funding, as follows:
  - for Large Projects, a requirement for minimum partner funding of 30 per cent of the estimated total project cost where the project was for a road that was the responsibility of local government;
  - for both Large and Small projects where State Government controlled infrastructure was concerned, a funding contribution of at least 50 per cent from other partners was required; and
  - stakeholder funding commitments in relation to all Large Projects and for Small Projects involving State controlled infrastructure were required to be 'firm' and in writing. An equivalent requirement was not stated in the Guidelines in relation to co-funding for Small Projects on local roads for which co-funding was not mandatory, but which could be proposed.

## **Eligibility checking procedures**

**3.40** The department's documented assessment procedures for Large Projects involved three stages: an initial eligibility check, an Initial Review of eligible projects against the assessment criteria; and then a Detailed Assessment for those projects rated *High* or *Medium* in the Initial Review. The first stage of the assessment involved the department checking:

- the eligibility of the proponent to apply for funding;
- whether the activity proposed to be funded was eligible; and
- whether the application complied with 'all three mandatory requirements' being the necessary proportion of partner funding



contribution; that the project was capable of being completed by the specified date; and the construction standard (although the Guidelines had identified that matter as being part of one of the assessment criteria, not as a mandatory requirement to be eligible for funding).

**3.41** Small Projects were assessed in two stages: an eligibility check followed by a Detailed Assessment of all eligible projects. To be considered eligible, the department required a Small Project application to pass four criteria:

- the project was for an eligible activity as defined in the Guidelines;
- the project proponent was an eligible organisation as defined in the Guidelines;
- the application satisfied a partner funding check—whilst the Guidelines did not require partner funding for Small Projects on local roads, Small Project works on State Government controlled infrastructure were to have at least a 50 per cent contribution from other partners that was firm and in writing; and
- the application had been received on time.

**3.42** The approach taken to assessing the eligibility of Small Project applications excluded two factors addressed at this stage for Large Projects, namely that:

- the project was capable of being completed by the first quarter of 2009, despite this same requirement being stipulated in the Guidelines for both Large and Small Projects; and
- the proponent agreed to meet relevant construction, technical and engineering standards.

## **Eligibility checking results and funding outcomes**

**3.43** Of the 177 Large Project applications received in 2006, 23 (13 per cent) were assessed by the department as being ineligible.<sup>127</sup> Of the 318 Small Project

---

<sup>127</sup> Three of those projects were subsequently approved for funding in the May 2007 round notwithstanding that there remained eligible Large Projects that had not been funded (discussed further at paragraphs 2.34 and 5.45 to 5.58).

applications accepted for assessment, the department considered seven (two per cent) to be ineligible.<sup>128</sup>

**3.44** However, there were a number of other projects submitted to the 2006 call for applications that were ineligible under the Program Guidelines but which were not identified as such by the department. Some of those projects have received Program funding.

#### *Assessment of partner funding contributions requirements*

**3.45** Some ineligible projects were not identified because the department did not consistently and fully apply as a threshold eligibility criterion the requirement under the Guidelines that stakeholder contributions to the mandatory minimum co-funding requirements 'must' be 'firm commitments, in writing'. A similar requirement was not stipulated in respect to contributions proposed by the applicant LGA.<sup>129</sup>

**3.46** Specifically, the department assessed compliance with that part of the eligibility criterion requiring specified minimum percentages of partner funding through a simple calculation. Where the nominated contributions set out in the application form did not meet the minimum requirements, the project was rated as ineligible and the application did not proceed to the next stage of assessment.

**3.47** However, the department did not consider at the eligibility checking stage whether there was written confirmation of the nominated stakeholder contributions. Instead, it introduced an approach under which applications that included stakeholder contributions that had not been confirmed in writing would have their overall rating reduced to *Low*, even if they would have been rated higher based on other criteria. In this respect:

---

<sup>128</sup> Three applications were assessed as ineligible because they were not received by the closing date. Four were assessed as ineligible because the project related to a State road but the required 50 per cent partner contributions were not proposed. For two of these four projects, the application was further assessed as involving an ineligible activity (in one instance, the construction of a shared cycleway/pathway with no associated roadwork and, in the other instance, the construction of a bus interchange). None of those projects have subsequently received Program funding.

<sup>129</sup> This approach was based on an underlying assumption that an amount entered on the application form that could be considered a proponent Council contribution could be taken at face value without any need for further confirmation (such as Council Minutes agreeing to provide the funding). For a number of projects, this proved to be an erroneous assumption that led to difficulties in the delivery of projects, in particular due to developer contributions budgeted by the applicant Council either not eventuating or being delayed.

- some Large Projects were rated *Low* at the Initial Review stage based, at least in part, on the absence of written confirmation of stakeholder funding and, therefore did not proceed to the Detailed Assessment stage; and
- during the Detailed Assessment stage, on 28 July 2006, the department promulgated a 'business rule' that those applications that had passed through to Detailed Assessment without the absence of written confirmation being identified should be rated *Low* ('as it would have been in the Initial Review'), even if they would have been rated higher based on other assessment criteria. However, the reason for the *Low* rating was to be made clear to the Minister in the departmental assessment summary.

**3.48** There were also instances of inequitable application of the stated eligibility requirement that stakeholder contributions be firm and in writing. This occurred both in the department's assessment of applications and in subsequent Ministerial funding decisions, as follows:

- during the Detailed Assessment stage, the department gave some applicants two days to provide written confirmation from stakeholder funding partners where this was not clear from the application. For Small Project applications, this was very little time for LGAs to respond having regard for the processes that may be involved in obtaining such confirmation from third parties, given, as noted, the Guidelines had not specified this requirement for Small Projects. Further, not all applicants with unconfirmed stakeholder contributions were afforded the same opportunity during the assessment stage to provide written confirmation;
- there were a number of examples of written confirmation of co-funding not being sought due to the department erroneously assuming the proponent Council was to provide the co-funding; and
- certain applications rated *Low* due to the absence of written confirmation of stakeholder funding contributions (rather than being deemed ineligible) were, nevertheless, approved for funding. Specifically, two of the five projects whose overall rating had been

reduced from *Medium* to *Low* on this basis were approved for funding<sup>130</sup> in 2006<sup>131</sup>, and five of the ten projects whose overall rating had been reduced from *High* to *Low* were approved for funding in 2006 or 2007.<sup>132</sup>

### ***Assessment of the project completion requirement***

**3.49** The Guidelines stated that projects were required to be capable of being completed by the first quarter of 2009. The department's eligibility check for Large Projects considered whether the project was capable of being completed by the specified date but, despite the same requirement being stipulated in the Guidelines for both Large and Small Projects, the Small Project eligibility check did not consider this issue. Rather, engineering timeline risks were considered as part of the Detailed Assessment, with any assessed risk of non-completion in the required timeframe being reflected in the project rating rather than resulting in the application being assessed as ineligible. Of the 11 Small Projects assessed as having a *High* timeline risk, one was approved for funding in 2006, and 15 of 30 Small Projects assessed as having a *Medium* timeline risk were approved for funding in either 2006 or 2007.

## **Assessment of eligible applications**

**3.50** The Ministerial correspondence of 3 March 2006 to LGAs inviting them to apply for Strategic Regional Program funding advised that funds would be allocated through 'a competitive merit-based project nomination and

---

<sup>130</sup> One example was the Lloyd Street Extension project submitted by the City of Swan seeking funding of \$10 million towards total estimated project costs of \$22.9 million. The application proposed that the State Government would contribute \$6 million and the remainder from the applicant. The department had reduced the assessed rating of this application from *Medium* against other criteria to *Low* due to the absence of written confirmation of the State Government funding. The project was not included in the potential package of funded projects proposed by the department, but was approved for funding by the then Minister in the 2006 funding round. This project has subsequently experienced significant difficulties due to the cost of land acquisition being substantially greater than that budgeted in the application (the department's assessment did not identify that the budget had been based on a dated consultant engineer's report from 2002). This has contributed to a delay in the delivery of the project (such that it was not completed by the first quarter of 2009 as was required under the Guidelines in order for a project to be eligible to receive funding); Council seeking additional funding from the State Government; and Council proposing to reduce the scope of works from that applied for (also see paragraph 4.55). As at March 2010, construction had yet to commence.

<sup>131</sup> One project related to two marginal electorates, one held by the Coalition and the other by the ALP, with the other project being located in a marginal Coalition-held electorate. The three projects that had their rating reduced from *Medium* to *Low* due to the absence of written confirmation of stakeholder funding and were not approved for funding were located in three separate electorates categorised by the Australian Electoral Commission as 'Safe'. Of these, one electorate was held by an Independent Member, another by the Coalition and the final one by the ALP.

<sup>132</sup> Each of these five projects related to Coalition-held electorates, as were the five not approved projects.

assessment process'. Similarly, the Media Release of 2 March 2006 announcing the application round stated that the process would involve 'assessing each nominated project on its competitive merits against standard criteria'.<sup>133</sup>

### **Criteria advised to potential applicants**

**3.51** The measure of a robust grants appraisal process is that it is transparent and can be expected to result in the selection of those projects that best represent value for money in the context of the objectives of the particular grant program.<sup>134</sup> The Program Guidelines released in March 2006 outlined that different assessment criteria were to be applied to Large Projects and Small Projects. These criteria are outlined in Table 3.4.

---

<sup>133</sup> The Hon Jim Lloyd MP, Minister for Local Government, Territories and Roads and the Hon Warren Truss MP, Minister for Transport and Regional Services, *op. cit.*

<sup>134</sup> ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, *op. cit.*, p. 35.

**Table 3.4**

**Assessment Criteria: March 2006 Program Guidelines**

Large Projects (applications seeking more than \$1 million in Program funding)	Small Projects (applications seeking up to \$1 million in Program funding)
<b>Collaborative regional planning</b> <b>Regional support</b> <p>The proposed project arises from demonstrated collaborative regional planning processes.</p> <p>The proposal has achieved wide support, that is from local government, industry, regional and community organisations.</p>	<b>Community/regional significance and community support</b> <b>Relevance to local industry and development</b> <p>The proposal demonstrates improvements to transport infrastructure significant to a local community.</p> <p>The proposal has achieved wide community support, that is from local government, industry, regional and community organisations.</p>
<b>Stakeholder funding contributions</b> <p>In order to meet the overall cost of the project, establish whether the proponent has secured stakeholder contributions.</p> <ul style="list-style-type: none"> <li>• Minimum contribution of 30 per cent where the road is the responsibility of local government.</li> <li>• At least a 50 per cent contribution from other partners where State Government controlled infrastructure is concerned. Firm commitments in writing must be provided from other contributing stakeholders.</li> </ul>	<p>No equivalent criterion but Guidelines stated that:</p> <ul style="list-style-type: none"> <li>• Council-owned and managed infrastructure will not require a contribution from other parties but 'priority generally will be given to projects where proponents identify partner contributions'.</li> <li>• Small projects on state road and rail infrastructure require at least a 50 per cent partner contribution.</li> </ul>
<b>Industry competitiveness</b> <p>The proposal demonstrates how the project enhances the ability of regional industry and communities to compete in the national and global marketplace through improved connectivity to export-related transport networks.</p>	<p>No equivalent criterion.</p>
<b>Regional significance</b> <p>The proposal demonstrates how the project improves regionally significant transport infrastructure.</p>	<p>No equivalent criterion.</p>
<b>Access to services and employment</b> <p>The proposal demonstrates how the project improves access for regional industry and communities to services and employment.</p>	<b>Community access</b> <b>Social significance</b> <p>The proposal demonstrates improved access for communities to services and employment.</p>
<p>No equivalent criterion.</p>	<b>Safety</b> <p>The proposal demonstrates improvements to the safety of transport operations.</p>
<b>Clear construction timelines and relevant construction standards</b> <p>The proposal provides projected start and finish dates for the project and confirmation that the proponent agrees to meet relevant construction, technical and engineering standards, and provide clear advice on the current status of, and timelines for, the project.</p>	

Source: *Strategic Regional Program—Guidelines for Applicants*, 2 March 2006, pp. 7, 10 and 11.

**3.52** The Guidelines did not advise potential applicants whether applications needed to meet all of the nominated assessment criteria in order

to be considered for funding, or of any relative weighting that would be given to particular criteria.

**3.53** In addition to the specified assessment criteria, the Guidelines stated that:

- a project's 'chances of success' would be enhanced if the proponent was able to support statements made in the application about the expected benefits of a candidate project will deliver to the community;
- proponents were 'strongly' encouraged to seek contributions from industries and enterprises that would benefit, either directly or indirectly, from the investment (as outlined in paragraph 3.39, whilst no partner funding assessment criterion was included for Small Projects, elsewhere the Guidelines outlined minimum partner funding expectations for these projects where they involved State Government controlled infrastructure); and
- when assessing applications, consideration would be given to the reliability of the project costing, whether the project was feasible within those costs, the relevant technical standards to be met, as well as the degree of planning already undertaken to enable the project to be completed within the specified timeframe.

**3.54** How these, and other such statements, were to be addressed when assessing projects was not considered until after applications had closed on 1 May 2006. Specifically, on 8 May 2006, the department sought advice from the then Minister as to the stage of assessment (Initial Review or Detailed Assessment) at which consideration should be given to the statements made in the Guidelines that priority would be given to:

- for Small Projects, those that identify partner contributions;
- capital works projects over submissions for maintenance works;
- capital works proposals over submissions seeking assistance solely for pre-construction activities; and
- applications where there is a fostering of partnerships between the Australian Government and regional Australia.

**3.55** Departmental records did not indicate any decision by the Minister in relation to when the published 'Program preferences' were to be addressed in the evaluation of applications. Departmental records of the assessment of individual applications also did not evidence that these 'Program preferences'

had been consistently considered and applied in the assessment of each application.

## **Assessment of project cost and timeline risks**

**3.56** As discussed, the Program Guidelines stated that:

- when assessing applications, consideration would be given to the reliability of the project costing, whether the project was feasible within those costs, the relevant technical standards to be met, as well as the degree of planning already undertaken to enable the project to be completed within the specified timeframe; and
- proposed works must be able to be completed by the first quarter of 2009, with final reports (other than audited statements) to be lodged by 20 June 2009 (see paragraph 3.39).

**3.57** However, the application process did not provide a strong basis for rigorously assessing applications against those parameters.

**3.58** Specifically, the application form did not include an explicit question asking the applicant to define the scope of works that were proposed to be undertaken within the identified project budget. Applicants variously referred to work dimensions (such as the nature of upgrade and/or the number of kilometres of work to be undertaken) in their response to a variety of the questions on the application form. Further, the application form did not require applicants to provide any material supporting the basis for either the identified project timelines or the estimated project cost included in the application. As a result, the department was not in a position to undertake an informed assessment of risks associated with these aspects of a project.<sup>135</sup>

**3.59** The consideration of engineering risks, including cost and timeline risks, in the departmental assessment process is discussed further at paragraphs 4.50 to 4.70 in the context of the outcomes subsequently achieved by approved projects.

---

<sup>135</sup> For example, the engineering risk assessment frequently stated that 'no detailed breakdown of the estimated cost has been provided' (as noted, the application form did not require this to be provided), with the estimated length of proposed roadworks being derived from a map (an approach that often proved inaccurate) and the estimated construction costs identified in the application then being simply divided by the kilometres of works the assessor had estimated to be involved and a judgement given as to whether the resulting cost per kilometre was sufficient or not.



## Departmental assessment methodology

**3.60** The purpose of assessing projects against nominated criteria is to inform decision-making. On the method and scale of rating projects, 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.<sup>136</sup>

**3.61** For those projects where it undertook an assessment, the department applied qualitative ordinal scales as follows:

- against each of the individual assessment criteria, the project was assessed as either: 'strongly meets', 'generally meets', 'barely meets' or 'did not meet'. The basis on which the rating assigned to a project in respect to each criterion would be determined was not documented. Nor did the department document the rationale for applying the separate ratings of 'did not meet' and 'barely met' for individual criteria, or the difference this assessment was intended to convey in terms of the application's capacity to contribute to achieving the program's objectives;
- engineering risks (with separate assessments being made in respect to timeline risk, cost risk and overall risk) were rated for each project as either *Low*, *Medium-Low*, *Medium*, *Medium-High* or *High*. Again, the basis on which the rating assigned to a project in respect to each criterion would be determined was not documented; and

---

<sup>136</sup> ANAO Better Practice Guide—Administration of Grants, May 2002, op. cit., p. 42.

- each eligible project that proceeded to the Detailed Assessment stage was assigned an overall rating of *Low*, *Medium* or *High*.<sup>137</sup>

**3.62** There was no clear documented basis for how the ordinal scales for the individual assessment criteria, the ordinal scales applied to engineering risks and the other ‘considerations’ outlined in the Program Guidelines would be combined to arrive at the overall project rating of *Low*, *Medium* or *High*.<sup>138</sup>

**3.63** The rating methodology adopted did not provide for clarity and transparency in the assessment and selection process. The ratings of ‘*Low*’, ‘*Medium*’ and ‘*High*’ were not defined, including in terms of the assessed level of achievement of program objectives and value for money they represented. In particular, the rating scale adopted made no provision for the department to give a clear assessment that an application was not suitable for funding due to not meeting the published criteria. As a result, the rating of *Low* could be misinterpreted as indicating a project satisfied the criteria set out in the published Program Guidelines, but was not preferred; whereas, in fact, 98 per cent of the projects that proceeded to a detailed assessment and were assigned an overall rating of *Low* had been assessed as failing to meet and/or barely meeting one or more of the assessment criteria (with the remainder being assessed as representing high engineering risks).<sup>139</sup>

**3.64** As a result, while the department suggested possible packages of funded projects for the then Minister’s consideration, the approach taken did not result in an actual merit ranking of individual competing projects and the department made no formal recommendations (this issue is discussed further at paragraphs 2.42 to 2.46 and 4.13 to 4.30).

---

<sup>137</sup> The department adopted what was described as a ‘quality assurance’ process, which essentially involved a more senior officer making a judgement call as to whether they agreed with the draft assessment against each criterion and the overall rating. A proportion of engineering risk assessments were also subject to a ‘quality assurance’ process which involved an engineer from another area of the department expressing a view on the original engineering assessment, with any differences being ‘moderated’ between the two engineers as part of the broader ‘quality assurance’ process.

<sup>138</sup> The department applied another process internally by which it developed a numerical score for Large Projects that had proceeded to Detailed Assessment. However, the methodology supporting that scoring process was not documented. Further, the numerical score information was not provided to the then Minister to inform his decision-making. Instead, the scores were used as part of an informal process undertaken by the department to identify ‘possible packages’ of projects for funding, none of which represented a competitive, merit-based ranking of competing eligible projects.

<sup>139</sup> Similarly, 69 per cent of the projects rated overall as *Medium* by the department had been assessed as not meeting and/or barely meeting at least one criterion.

## Assessment practices for land transport projects

**3.65** The *National Guidelines for Transport System Management in Australia* (National Guidelines) were endorsed by the Australian Transport Council in November 2004, and updated in December 2006. The National Guidelines are based on a decision support system known as the Transport System Management Framework, which is aimed at achieving high-level transport system objectives.<sup>140</sup> The expectation is that working through this Framework will result in a structured approach to decision-making, without which decisions may lack consistency, resources may be misallocated and high level objectives may not be achieved.<sup>141</sup>

**3.66** A key aspect of the National Guidelines is a staged appraisal process.<sup>142</sup> The intention is that projects pass through all filters such that they have demonstrated strategic merit and fit, and performed well in detailed appraisals. Detailed appraisals are expected to involve comprehensive analysis including detailed Benefit Cost Analysis, a financial or budget assessment, and specific impact analyses and impact statements (for example, environmental, social, regional, employment, equity).

**3.67** As outlined in ANAO Audit Report No. 29 2008–09, a staged appraisal process drawing on economic analysis of anticipated project benefits and estimated whole-life costs reflects contemporary developments in managing transport infrastructure projects.<sup>143</sup> Rigorous cost-benefit analysis to support funding decisions and supported by ex-post evaluation and review is also an approach advocated in the 2008-09 Budget Papers for infrastructure projects broadly:

The expected return on investment is generally relied upon to guide commercial investment decisions, with respect to how much to invest and in which areas. Expected social rates of return can be used as a major guide in

<sup>140</sup> Australian Transport Council, *National Guidelines for Transport System Management in Australia*, Volume 1—Introduction to the Guidelines and Framework, December 2006, p. 11.

<sup>141</sup> *ibid.* The *AusLink Investment Program: National Projects Notes on Administration* (March 2006, updated in November 2006), reiterate this expectation. Specifically, the Notes explain that the Government has committed to progressively adopt a nationally consistent project appraisal methodology drawing upon the National Guidelines. Further, Project Proposal Reports (PPRs) and supplementary information requirements set out in the Notes on Administration (when updated in November 2006) were prepared in line with the National Guidelines methodology.

<sup>142</sup> The staged appraisal process outlined in the National Guidelines is reiterated in the *AusLink Investment Program: National Projects Notes on Administration*.

<sup>143</sup> ANAO Audit Report No. 29 2008-09, *op. cit.*, p. 14.

decision making with respect to public infrastructure projects, to help ensure both the level and composition of public infrastructure investment are consistent with achieving maximum possible wellbeing. Only public infrastructure projects which at least meet a minimum benchmark social rate of return—determined through rigorous cost-benefit analysis, including ex post evaluation and review—should be funded, and relative social rates of return above the minimum benchmark should be used to prioritise the funding of projects.

...Where governments invest in infrastructure assets, it is essential that they seek to achieve maximum economic and social benefits, determined through rigorous cost-benefit analysis including ex post evaluation and review.

...Efficient public infrastructure investment requires the development of coordinated, objective and transparent processes for decision-making based on thorough and rigorous cost-benefit analysis.<sup>144</sup>

**3.68** Perceived limitations of Benefit Cost Analysis have led to the development of other complementary approaches. Of these, the National Guidelines focus on an Appraisal Summary Table<sup>145</sup>, and introduced a new optional approach, referred to as adjusted Benefit Cost Analysis (as a formal way to re-weight or incorporate non-economic efficiency factors such as environmental factors).

**3.69** However, applicants to the 2006 Strategic Regional Program funding round were not asked to include any economic analysis with their applications and very few applications referenced a Benefit Cost Ratio (BCR) calculation. ANAO wrote to a large number of Councils with approved projects, asking them (amongst other things) to supply details of any BCR calculated for the approved project. Very few LGAs advised ANAO that a BCR had been calculated in respect to the projects for which they had sought funding.

**3.70** In addition to not seeking such information from applicants, as outlined below, the department's assessment did not incorporate the use of

---

<sup>144</sup> Budget Paper No. 1 2008-09, *Budget Strategy and Outlook*, Circulated by the Honourable Wayne Swan MP, Treasurer of the Commonwealth of Australia and the Honourable Lindsay Tanner MP, Minister for Finance and Deregulation of the Commonwealth of Australia for the Information of Honourable Members on the Occasion of the Budget 2008-09, 13 May 2008, pp. 4-6, 4-13 and 4-15.

<sup>145</sup> The National Guidelines outline that the Appraisal Summary Table is a presentation format first developed and used by the United Kingdom Department of Transport. The National Guidelines include an example of an Appraisal Summary Table and note that: 'It addresses the same question as Benefit Cost Analysis; that is, is an initiative likely to produce a net benefit to society as a whole? However, in contrast to Benefit Cost Analysis, the Appraisal Summary Table considers both monetised and non-monetised impacts.'

cost-benefit analyses. Even where Councils had calculated a BCR and provided it with their application, it was not referenced in the application assessment.<sup>146</sup>

**3.71** BCR information is now requested as part of the PPR process for Off-Network projects being considered for funding under Part 6 of the land transport legislation where the funding recipient is a State authority, and is included in the departmental assessment provided to the Minister. However, LGA proponents for Off-Network projects also considered for funding under Part 6 of the land transport legislation are not required to provide BCR information as part of the PPR process. The application of different administrative frameworks to Part 6 Off-Network projects based upon whether the funding recipient is a State or Territory Government or an LGA is also discussed at paragraphs 2.77 to 2.79.

## Improving road safety

**3.72** At the time of the 2006 application round, there was (and still is) in place an Australian Government funding program focused on improving road safety. Specifically, the Black Spot Program, which is administered through another Part of the land transport legislation, targets sites or sections of the road network that experience a high incidence of vehicle crashes and fatalities (referred to as ‘black spots’).<sup>147</sup> The Black Spot Program requires evidence to be used as the basis for identifying black spots, developing proposed treatments and the cost of treatment, and ranking projects so that they can be prioritised for funding.<sup>148</sup> This evidence-based approach to the administration of the Program is intended to result in the highest priority road safety Black Spot projects being selected and funded so as to achieve the highest benefits from

<sup>146</sup> For example, Moree Plains Shire Council applied on 30 April 2006 for \$514 000 towards the estimated \$868 000 cost of replacing two bridges on Main Road 232. The application stated that a study carried out in 2002 had calculated a BCR of 3.05 for the replacement of each bridge. The department rated the project *Low* (it would have been rated *Medium* but for concerns that the budget was insufficient to replace the bridges). The assessment made no mention of the BCR advised by Council. In this respect, under the Black Spot Program, a project must offer a BCR greater than 2.0 to be considered for funding (see paragraph 3.74).

<sup>147</sup> Until recently, the maximum contribution the Black Spot Program would make to a project was \$750 000. The current (September 2009) Black Spot Program Notes on Administration state that the maximum contribution is now \$2 million.

<sup>148</sup> ANAO Audit Report No. 45 2006-07, *The National Black Spot Program*, Canberra, 19 June 2007, pp. 15-16.

Commonwealth expenditure in this area.<sup>149</sup> Two forms of evidence are accepted as the basis for Black Spot Program project nominations, as follows:

- funding is mainly available for the treatment of black spot sites or road lengths with a proven history of crashes (sometimes referred to as 'reactive' projects). For projects nominated on this evidence, a BCR is determined to assess the economic benefits and ranking of projects so that projects can be prioritised for funding; and
- up to 20 per cent of Program funds are available for the treatment of locations that may not meet the crash history criteria, but which have been recommended for treatment on the basis of an official road safety audit report (sometimes referred to as 'proactive' projects).

**3.73** Crash statistics supporting the nomination must relate to the discrete site or length of road for which funding is sought, and be for the most recent five year period that is available.<sup>150</sup> These crash statistics are used both to assess project eligibility and rank eligible projects, as follows:

- for a discrete site, there must have been at least three casualty crashes over the most recent available five year period; and
- for road lengths, there must have been either:
  - an average of 0.2 casualty crashes per kilometre per annum<sup>151</sup> over the length in question measured over the most recent available five year period; or
  - the length must be amongst the top 10 per cent of sites identified in each State that have an identified higher crash rate than other roads.

**3.74** To be eligible for funding, project proposals with a sufficiently high recent crash history must also have a BCR of at least 2.0. The standard formula for calculating project benefits as part of a BCR includes the annual crash rate; an accident reduction factor for the proposed work to be undertaken (which

---

<sup>149</sup> *ibid.*, p. 16.

<sup>150</sup> A period of five years is used rather than a longer period because of the likelihood that changes in road features will have occurred which will affect accident causes. See ANAO Audit Report No. 45 2006-07, *op. cit.*, p. 175.

<sup>151</sup> To ensure that the road length in question has a crash history similar to that required for a discrete site, the road length criterion may only be applied to proposals for the treatment of road lengths of three kilometres or more.

must relate to the nature of crashes that have occurred); the average cost of a prevented crash; and the discount factor associated with the expected life of the treatment.

**3.75** ANAO has previously examined the administration of the Black Spot Program and concluded that the evidence-based approach to nominating, ranking and approving Black Spot Program projects is consistent with better practice principles for road safety programs.<sup>152</sup> However, the department did not seek to apply the benefits of an evidence-based approach to road safety interventions when designing the application and assessment procedures for the Strategic Regional Program.

**3.76** For example, the Program Guidelines did not provide guidance to proponents on what information the department required to be submitted in support of applications that claimed to offer road safety benefits. As a result, whilst some project applications voluntarily included crash statistics, others did not. In this latter circumstance, the department did not seek such information from the proponent. In addition, as noted, even where crash statistics were provided, they were not accompanied by a BCR calculation. Further, project proposals that included crash statistics also did not clearly identify whether the nature of crashes that had occurred were being addressed by the proposed works.

**3.77** The department did not identify issues of this nature in its project assessments, but instead usually accepted the applicant's contention that safety benefits would result from the work. For example, despite obvious anomalies in the information provided in Wyong Shire Council's application for \$800 000 for the Dickson Road Upgrade project as part of 'an ongoing program of work to progressively upgrade Dickson Road to a sealed road', the departmental assessment of the Dickson Road project rated the application as 'strongly meeting' the safety criterion on the basis:

The proponents provide strong evidence (RTA Crash Data provided in supplementary documentation) that correlate the unsealed section of this road to a high degree of accidents and cogently argue that sub-standard alignment

---

<sup>152</sup> ANAO Audit Report No. 45 2006-07, op. cit., pp. 15-20.

and poor surface conditions are the cause. The proponents claim that by sealing the unsealed section of this road, safety issues will be addressed.<sup>153</sup>

## **Perceived regional benefits**

**3.78** In assessing projects, the department frequently relied upon the regional and other benefits claimed by applicants, rather than independently scrutinising and analysing the application. This practice was reflected in the documented assessments provided to Ministers being drafted directly from the claims set out in the application, rather than reflecting any independent assessment by the department of the project's likely benefits.

**3.79** Further, Program application and assessment processes did not promote a regional focus. For example, it is not unusual for regionally significant roads to be located in more than one local government area. However, neither the Program Guidelines nor the department's internal procedures contemplated how the department was to address these circumstances in the evaluation of projects or, subsequently, when administering funding to successful projects.

**3.80** In some instances, neighbouring Councils separately submitted applications seeking funding for projects located on the same road but the department did not address this circumstance when assessing the benefits of funding work on the respective route. In some instances, work in both Councils was separately approved for funding, although not all works have actually been delivered.

## **Community Support**

**3.81** Under the Program Guidelines, both Large and Small Projects were to be assessed as to whether the proposal had achieved wide community support

---

<sup>153</sup> The department's conclusion that the project would address safety concerns with the two bends on the route, on the basis that the 'unsealed section of this road is a major cause of accidents' was underpinned by similar statements in Council's application, with a project proposal addendum submitted by Council including advice that: 'There have been 37 accidents since November 2000. These are presented in the Table 3.1 attached to this report. During this period there were a total of 44 occupants and 19 injuries.' However, the Table 3.1 attached to the application did not support these figures. It included 37 accidents between **26 February 1987** and 31 May 2004 (the last section of upgrading completed by Council prior to the Strategic Regional Program funding being sought was also in 2004). There was no accident data provided for the two years leading up to the May 2006 application being submitted. In addition, due to the table including accidents prior to November 2000, the quoted numbers were significantly overstated, as follows: rather than 37 accidents since November 2000, the actual number was eight; rather than 19 injuries, the actual number was five since November 2000; and rather than 44 occupants being involved in accidents since November 2000, the actual number was **12**. In addition, the crash statistics did not identify where the accidents occurred on the road, such that it is unclear how many of the accidents actually occurred in the section for which Strategic Regional Program funding was sought. Despite this assessment against the safety criterion, the project was assessed as *Low* overall. The project was not funded in the 2006 round, but was approved for funding in 2007.



(from local government, industry, regional and community organisations). The Guidelines also advised applicants that a project's chances of success 'would be enhanced if proponents are able to support statements made in the application about the expected benefits a project will deliver to the community'. In this respect, the application form requested that proponents provide details of support for the project including, if available, copies of supporting letters.

**3.82** The approach of providing applicants with the opportunity to demonstrate community support for their project through letters of support is relatively common in grant programs. However, there is a risk that some projects may also have community opposition—something that the applicant is unlikely to draw attention to in its application for funding. For the Strategic Regional Program, letters of protest for some applications were received after applications were submitted, but such letters were not considered in the departmental assessment.

## Recommendation No.3

**3.83** ANAO *recommends* that the Department of Infrastructure, Transport, Regional Development and Local Government:

- (a) for any future grant programs, develop assessment procedures that are consistent with the approved Program Guidelines; and
- (b) prior to making recommendations to Ministers in respect to funding of regional road projects, analyse each candidate project's economic costs and benefits, monetising social and environmental impacts where possible.

*DITRDLG response:*

**3.84** Agree. The department notes in relation to (a) that for the current Off-Network Program the department has assessment procedures that are consistent with the Program Guidelines and that this recommendation has therefore already been implemented.<sup>154</sup>

---

<sup>154</sup> As discussed in Chapter 6 of this audit report, the Off-Network Program is currently being used to fund projects that were the subject of election commitments made in the context of the 2007 Federal election. As also noted in Chapter 6, the Strategic Regional Program was similarly used to fund election commitments made in the context of the 2004 Federal election. As indicated by the department's comments, in addition to requiring more comprehensive information from proponents of 2007 election commitments compared to 2004 election commitments, the documented departmental assessment procedures were also enhanced (see paragraph 6.78). However, as outlined at paragraph 6.85, there has not been a consistent standard adopted in the analysis of project PPRs.

## 4. 2006 funding round recommendations and decisions

---

*This chapter examines the decision-making processes that led to the selection of projects for funding through the 2006 funding round, announced in December 2006.*

### Background

**4.1** In Audit Report No.14 2007-08, ANAO outlined that:

Ministers are expected to discharge their responsibilities in accordance with wide considerations of public interest and without regard to considerations of a party political nature. Where they are approving the making of a grant, Ministers are approving the expenditure of public money. This role brings with it particular accountability obligations, including statutory requirements which govern the circumstances in which Ministers may provide such approvals. In particular, the financial framework requires that a grant not be approved by Ministers unless reasonable inquiries have been undertaken that demonstrate that the proposed expenditure will make efficient and effective use of public money. Ministers are also expected to form their views having regard to the relevant Government policies and programme guidelines.<sup>155</sup>

**4.2** As noted, on 3 March 2006, the then Minister for Local Government, Territories and Roads had written to LGAs calling for applications and providing them with an electronic copy of the application form and the Program Guidelines. In respect to the assessment of applications and the allocation of funding to projects, the then Minister had advised LGAs that:

Projects will be assessed on their competitive merits against standard criteria and funding will be allocated accordingly.

**4.3** One benefit of having in place documented internal procedures that support published Programme guidance is to give confidence that consistent standards of administration will be adopted.<sup>156</sup> This is particularly important for programs that involve assessments for grant funding, due to the importance of applicants being treated equitably.<sup>157</sup>

---

<sup>155</sup> ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, op. cit., pp. 20-21.

<sup>156</sup> *ibid.*, p. 35.

<sup>157</sup> *ibid.*

**4.4** Against this background, the ANAO Administration of Grants Better Practice Guide (May 2002) and ANAO Audit Report No. 14 2007-08, outlined some key principles in respect to decision-making processes for grant programs, in particular:

Where assessment criteria are published for a grants programme, potential applicants may reasonably 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.<sup>158</sup>

...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 for 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 and equity in the treatment of applicants, and in avoiding perceptions of bias or political interference.<sup>159</sup>

**4.5** Consistent with the findings and recommendations of that audit, from 1 July 2009 the financial framework governing the expenditure of public money through grant programs has been enhanced through changes to the FMA Regulations and the publication of the CCGs. In that process, long standing principles of good practice have now been formalised. Amongst other things, the CCGs require that:

- Ministers not approve a grant without first receiving agency advice on the merits of the proposed grant; and
- Ministers report annually to the Finance Minister on all instances where they have decided to approve a particular grant which the relevant agency had recommended by rejected, with this report to include a brief statement of the basis of the approval of each such grant.<sup>160</sup>

**4.6** In terms of requiring agencies to provide Ministers with advice on the merits of proposed grants, the experience with the Strategic Regional Program illustrates some of the risks that can result when agencies do not provide

---

<sup>158</sup> ANAO Audit Report No. 14 2007-08, Volume 2—Main Report, op. cit., p. 153.

<sup>159</sup> ANAO Audit Report No. 14 2007-08, Volume 1—Summary and Recommendations, op. cit., pp. 57 and 59.

<sup>160</sup> Commonwealth Grant Guidelines, op. cit., p. 10.

explicit funding recommendations to Ministers. The experience also highlights the benefits in terms of accountability and transparency that may be expected to result from the new requirement for approvers to document the basis for being satisfied that the proposed grant represent efficient, effective and ethical use of public money that was not inconsistent with relevant policies (including the guidelines applying to the program).

## Advice provided to the Minister on Large Projects

**4.7** The department received and accepted for assessment a total of 177 applications to fund Large Projects (that is, those seeking more than \$1 million in Strategic Regional Program funding). These projects were seeking a total of \$859.57 million towards total estimated project costs of \$1.69 billion. Applications were assessed in three stages (eligibility check—which was examined in Chapter 3 (paragraphs 3.34 to 3.49); Initial Review; and Detailed Assessment).

### Initial Review

**4.8** As discussed at paragraph 3.19, after applications closed, the then Minister for Local Government, Territories and Roads agreed to a departmental proposal that, as Small Project applications well outnumbered Large Project applications, the department would undertake the Large Project assessment first.<sup>161</sup> Also with the agreement of the then Minister, eligible Large Projects were to be subject to a two stage assessment process involving an Initial Review followed by a Detailed Assessment. The Minister further agreed to the department's proposal that the Initial Review would sort projects into *High*, *Medium* and *Low* categories based on an initial assessment of five criteria:

- the contribution to regional economies/industry;
- whether the proposal was generated by a regional planning process;
- the capacity for the project to be completed by June 2009;
- reasonableness of cost; and
- a general overview that it was a 'reasonably robust project'.

---

<sup>161</sup> This approach was recommended in order to inform decisions about options for revising the notional funding allocations for Large and Small Projects set out in the Guidelines (see paragraph 4.18).

**4.9** The Initial Review of Large Projects was completed by the department on 12 July 2006. Of the 154 Large Projects assessed as eligible, the Initial Review resulted in 55 being rated *Low* and the remaining 99 being rated either *Medium* or *High*.

**4.10** As also discussed at paragraph 3.19, under the documented assessment procedures, only those Large Projects rated as *High* or *Medium* after the Initial Review would proceed to the next stage, being a Detailed Assessment against the criteria set out in the Guidelines. Accordingly, at no stage were the 55 Large Projects that were rated *Low* in the Initial Review subjected to a full assessment against the published Guidelines and a final assessment rating was not identified. None of those projects were approved for funding at the conclusion of the 2006 funding round. However five were subsequently approved for funding in the May 2007 Budget round (notwithstanding that they had not been subjected to a Detailed Assessment by the department—funding decisions in the 2007 Budget round are discussed further in Chapter 5 of this audit report).

**4.11** At the time of providing the then Minister with the results of the Initial Review, the department advised that it expected to provide advice on the outcome of the Detailed Assessment of Large Projects in the *Medium* and *High* categories by the end of July 2006 (a slippage of two weeks on the original timetable). As outlined below, this revised timeline was also not met, with advice on the outcome of the Detailed Assessment process not being provided to the Minister until mid-August 2006, representing an overall delay of one month on the original timetable.

## Detailed Assessment

**4.12** The 99 Large Projects that proceeded to the Detailed Assessment stage sought \$447.9 million in Strategic Regional Program funding towards total estimated project costs of \$933.1 million. The department individually assessed all 99 projects against the published assessment criteria outlined in Table 3.4. The Detailed Assessment process also involved:

- an appraisal by departmental engineers of the project cost and timelines set out in the application, rated in terms of risk. The intention of this process was to identify potential project ‘problems’ that may expose the Australian Government in terms of timeline and/or cost ‘blowouts’; and

- a 'quality assurance and moderation' process with the objective of ensuring that project assessments 'tallied and justified the final ratings in terms of the project objectives'.

## **Assessment results and advice to Minister**

### *First formal advice to Minister: 11 August 2006*

**4.13** On 11 August 2006, the department provided formal advice to the then Minister for Local Government, Territories and Roads (copied to the then Minister for Transport and Regional Services) on the outcome of the Detailed Assessment process for Large Projects. Of the 99 Large Projects that proceeded to Detailed Assessment:

- 41 were rated *High*;
- 11 were rated *Medium*;
- seven were rated *High* on other criteria, but reduced to *Low* due to lack of written confirmation of co-funding (see paragraphs 3.45 to 3.48);
- three were rated *Medium* on other criteria, but reduced to *Low* due to lack of written confirmation of co-funding (also see paragraphs 3.45 to 3.48); and
- 37 were rated *Low*. In general, this was due to the application being assessed as failing to meet, or only barely meeting, one or more of the criteria set out in the published program Guidelines and/or representing a high cost/timeline risk.

**4.14** The department advised the then Ministers that, because the funds sought for *High*-rated Large Projects far exceeded the funds available, the *High*-rated projects were additionally filtered through the strategic aims of the Program including strengthening inter-government and industry partnerships and leveraging total project investment.

**4.15** This was then further moderated by factors that had not been set out in the published Guidelines. For example, the Guidelines did not identify any intention to consider geographical distribution in determining approved funding, but the department developed a business rule that, where a Council had more than one Large Project rated *High*, only one of the projects would be included in the possible 'package' of projects put forward to the Ministers (see

paragraphs 2.42 to 2.46).<sup>162</sup> The department also provided the Ministers with analysis of how the possible package aligned with the distribution across States of R2R program funding. In that context, it would have been appropriate for the department to have also advised the Minister that care should be taken in applying considerations of that nature to the selection of successful applicants as it may not be consistent with the principle outlined in the published Guidelines that:

Strategic Regional Program funds will be allocated under a competitive, merit-based process. The Australian Government will not allocate set amounts of funds to each of the States and territories. The funds will form a national pool.

**4.16** Using the additional filters, the department identified a potential package of 17 *High*-rated Large Projects seeking a total of \$87.17 million in Australian Government funding. The department advised the then Ministers that this group of projects:

contribute strongly to the strategic aims of the Program as above. This group is a set of projects that have high merit in terms of the specified criteria and the overall Strategic Regional Program.

**4.17** To take the value of a potential funding package of Large Projects up towards the notional funding allocation for that pool of \$107 million, the department identified three alternative groupings of projects that could be combined with the 17 *High*-rated Large Projects (the resulting potential packages had associated Program funding amounts of \$95 million, \$103 million and \$107 million respectively). None of these alternatives was identified as being the department's 'preferred' or 'recommended' package. Nor did the department make any recommendations in respect to whether individual projects should be funded or not, based on their relative merits when compared against competing eligible projects.

**4.18** The department also did not seek the Minister's agreement to any of the Large Project packages or his approval of any projects. Instead, it asked him to agree to a discussion on alternatives for finalising allocation of the

<sup>162</sup> In this respect, it is also relevant to note that, following the Initial Review stage, the department had advised the then Minister that there was a higher proportion of Large Projects in Queensland and South Australia rated as *High* or *Medium* than those in New South Wales, Victoria, Western Australia and Tasmania. In this respect, the department's assessment was that: 'It is evident that the well established Regional Road Groups in Queensland have strongly contributed to the strategic regional nature of the projects put forward in that State. In both states, the clear funding commitment and prioritisation by the state governments provided additional confidence in the strategic and collaborative nature of projects.' Ultimately, this assessment was not reflected in the distribution of funding following the 2006 round.

Program funding across Large and Small Projects. The department also advised the then Minister that:

Given the greater than expected number of applications in the small project category (311) and the disproportionate number of projects to the level of funding, you may wish to delay finalising a large project funding package until the Department has assessed the small projects and are able to provide advice on their quality. This may provide the opportunity to alter the notional funding split and allow adjustment of state shares to balance any potential large project funding allocation.

**4.19** For each Large Project rated *High* or *Medium*, the department provided the then Ministers with a Project Brief that outlined the department's assessment of the project. The Project Brief identified the proponent and electorate the project was located in; included a summary of the project; provided an overview of the funding arrangements for the project; and outlined the advice from the relevant Area Consultative Committee on whether or not it supported the project.

**4.20** The Project Briefs provided to the then Minister (to inform funding decisions) also included the department's overall rating of the project and summarised the reasons for the rating based on the published assessment criteria. The individual Project Briefs made no reference to the additional filters the department had applied in formulating the 'potential funding packages' advised to the Ministers. Nor did the briefs provided in relation to each project make any reference to the comparative merits or ranking of the project when considered against other eligible, competing projects.

**4.21** There is no record of the Project Briefs for Large Projects rated as *Low* following the Detailed Assessment stage having been provided by the department to the then Ministers.

**4.22** The department's records did not include a copy of the 11 August 2006 brief that had been signed by the then Minister. The department advised ANAO that the brief had been returned from the then Minister's Office as 'no further action was required'.

#### ***Second formal advice to Minister: 17 August 2006***

**4.23** On 17 August 2006, the department provided the then Minister for Local Government, Territories and Roads (copied to the then Minister for Transport and Regional Services) with advice on an alternative to the package of 17 *High* rated Large Projects submitted on 11 August 2006.



**4.24** The alternative involved substituting one Large Project submitted by Cook Shire Council with another project also submitted by the same Council. As the proposed substitution project involved a greater Australian Government funding contribution, the cost to the Program of the revised package of 17 projects had increased from \$87.17 million to \$95.57 million. The department advised the then Minister that the lower value Cook Shire project (Northern Peninsula Road Access Improvement seeking \$1.6 million towards estimated project costs of \$2.3 million) had initially been preferred over the larger project (the Lily Creek to Crocodile Gap project seeking \$10 million towards estimated project costs of \$20 million) as the size of funds sought under the larger project adversely affected the desired overall distribution of funds across the States compared to that provided under the R2R program (see paragraph 4.15). Departmental records did not identify the reasons for it submitting the revised package to the then Minister.

**4.25** The then Minister did not make any funding decisions in respect to Large Projects at this time.

## Advice provided to the Minister on Small Projects

**4.26** Small Projects were assessed in two stages: an eligibility check followed by a Detailed Assessment (there was no Initial Review stage similar to that which had been undertaken for Large Projects). In total, 311 Small Projects were assessed as eligible and progressed to the Detailed Assessment stage. The extent of analysis the department expected to apply to Small Project applications (which sought funding amounts ranging between \$25 000 and \$1 million) was reflected in the department's *Small Projects Assessment Procedures Manual* which stated that:

The assessment process for Small Projects is expected to take no longer than 3 hours to complete.

**4.27** After the assessment of Small Projects was completed, on 13 October 2006, the department provided formal advice to the then Minister for Local Government, Territories and Roads (copied to the Minister for Transport and Regional Services). The department provided the Ministers with Project Briefs for every Small Project assessed as eligible, regardless of whether it was rated as *High*, *Medium* or *Low* following the Detailed Assessment stage.

## **Advice provided to the Minister on overall assessment process**

**4.28** The 13 October 2006 advice also provided the Ministers with a total ‘potential funding package’ of 65 Large and Small projects with a total Australian Government contribution of \$126.87 million. This comprised the 17 Large Projects from the department’s 17 August 2006 advice to the then Minister with a Program cost of \$95.57 million (see paragraphs 4.23 to 4.24) and 48 Small Projects with a Program cost of \$31.3 million.

**4.29** However, again, the department did not make any formal recommendations in respect to whether individual projects should be funded or not, based on their relative merits when compared against competing eligible projects, and did not seek the then Minister’s agreement to its proposed potential funding package. Nor did the department formulate a ranked and prioritised list of the eligible assessed projects based on their relative merits against the program Guidelines. Instead, the department asked the then Minister for Local Government, Territories and Roads to:

1. NOTE the outcome of the project assessment process and the resulting potential funding package of \$126.87 million, and the list of other projects.
2. APPROVE a package of Strategic Regional Projects to be funded.

**4.30** This approach did not provide for transparency in decision-making, and would not sit comfortably with the recently adopted CCGs (see paragraph 2.46). Nor did it accord with the advice provided to applicants in the Guidelines which stated that the available funding would be allocated under a competitive, merit-based process.

## **Funding decisions**

**4.31** On 2 November 2006, the then Minister for Local Government, Territories and Roads returned the covering brief to the department and recorded that:

I have considered the assessments and have determined that the Large category projects indicated in Attachment “AA” will be funded and request approval documents under Part 6 of the AusLink Act be prepared for these projects and that further consideration of Small category projects will occur at a later time.

**4.32** In total, 29 Large Projects were approved for funding by the then Minister, with an aggregate Program contribution of \$95.95 million. Of these 29 projects, six had been included by the department in its final ‘potential

funding package' of 17 Large Projects provided to the Ministers on 17 August 2006 (see paragraphs 4.23 to 4.24) and 13 October 2006 (see paragraphs 4.28 to 4.30). As outlined in Table 4.1, of the 29 Large Projects approved for funding by the then Minister in November 2006, nine (31 per cent) had not been rated as *High* by the department when assessed against the Program Guidelines and other filters applied in the assessment. Further in this respect, there were more projects rated *Low* that were approved for funding (five projects), than projects that had been rated *Medium* (four projects).

**Table 4.1**

**Project assessments and 2006 funding decisions: Large Projects**

Large Project assessments			2006 funding decision	
Eligibility check	Initial Review	Detailed Assessment	Approved	Not approved
23 ineligible	Not reviewed	Not assessed	No projects	23 projects
154 eligible	55 rated <i>Low</i>	Not assessed	No projects	55 projects
	99 rated <i>Medium</i> or <i>High</i>	47 rated <i>Low</i>	5 projects	42 projects
		11 rated <i>Medium</i>	4 projects	7 projects
		41 rated <i>High</i>	20 projects	21 projects
<b>177 projects</b>	<b>154 projects</b>	<b>99 projects</b>	<b>29 projects</b>	<b>148 projects</b>

Source: ANAO analysis of departmental records.

**4.33** On 6 December 2006, the then Minister for Local Government, Territories and Roads provided a further memorandum to the department advising that:

I have now considered the assessments for Small category Strategic Regional Projects and have determined that the Small category projects indicated in Attachment AB to this memorandum will be funded and request that approval documents under Part 6 of the AusLink Act be prepared for these projects.

With regard to the remaining unallocated Strategic Regional funding of approximately \$3 million, I will provide further advice on the allocation of this.

**4.34** In total, the then Minister had approved \$26.73 million in Strategic Regional Program funding for 52 Small Projects that had a total estimated cost of \$43.21 million. Of these 52 projects, 24 (46 per cent) had not been included by the department in its 'potential funding package' advised to the then Ministers on 13 October 2006 (see paragraphs 4.28 to 4.30).

**4.35** The copy of the 13 October 2006 brief provided to the then Minister for Transport and Regional Services was returned to the department on 15 December 2006. The brief had been marked by the then Minister's Office on 13 December 2006 as: 'Overtaken by events'. Departmental records also state that the Minister's Office advised the department that:

The brief had been 'overtaken by events'. Ministers have selected a package of projects based on departmental advice, coupled with additional information not available to the department.

**4.36** The additional information that was not available to the department but taken into account by Ministers in selecting the package of projects to be funded was not identified and there is no record of the department being advised of, or seeking advice on, the additional information relied upon in the funding decisions.

**4.37** On 19 December 2006, the then Minister for Local Government, Territories and Roads provided a further memorandum to the department which advised that:

Further to previous written advice on submission reference 09987-2006 that I provided in relation to Small category Strategic Regional Projects, and the remaining unallocated Strategic Regional funding of approximately \$3 million, I have now determined that the Small category projects indicated in Attachment AC to this memorandum will be funded and request that approval documents under Part 6 of the AusLink Act be prepared for these projects.

**4.38** Attachment AC to the then Minister's memorandum identified five projects with a total estimated project cost of \$3.95 million and Strategic Regional Program funding of \$3.01 million. The majority of these (three projects or 60 per cent) had been included by the department in its 'potential funding package'.

**4.39** In respect to the funding of Small Projects, Table 4.2 illustrates that, although 29 projects rated *Medium* and eight projects rated *Low* were approved for funding, there remained eleven Small Projects rated *High* by the department that were not approved for funding.

**Table 4.2****Project assessments and 2006 funding decisions: Small Projects**

Small Project assessment		2006 funding decision	
Eligibility check	Detailed Assessment	Approved	Not Approved
7 ineligible	Not assessed	No projects	7 projects
311 eligible	219 rated <i>Low</i>	8 projects	211 projects
	61 rated <i>Medium</i>	29 projects	32 projects
	31 rated <i>High</i>	20 projects	11 projects
<b>318 projects</b>	<b>311 projects</b>	<b>57 projects</b>	<b>261 projects</b>

Source: ANAO analysis of departmental records.

**Documenting the basis for funding decisions**

**4.40** Ministers are not obliged to accept the recommendations or assessments of officials or other advisory bodies. At the time the Strategic Regional Program funding decisions were made in late 2006, there was also no requirement for Ministers to document the nature and extent of any inquiries undertaken, or caused to be undertaken, to satisfy themselves that a proposed grant would make efficient and effective use of public money, or to record any reasons for the decisions taken.<sup>163</sup>

**4.41** Nevertheless, as discussed at paragraph 2.38, where Ministers reach a decision that is not consistent with departmental advice it had been recognised as being sound practice to document the basis for decisions taken. This was recognised as aiding program transparency and public accountability and assists in demonstrating that the decisions have been taken in accordance with relevant statutory requirements. However, the then Minister did not document the reasons for his funding decisions or the basis on which the projects approved for funding had been determined, including as to why:

- 21 Large Projects that had been rated *High* against the Program Guidelines were not approved for funding, while nine projects that had been rated *Medium* or *Low* were approved; and
- 11 Small Projects that had been rated *High* against the Program Guidelines were not approved for funding, while 37 projects rated *Medium* or *Low* were approved.

<sup>163</sup> This is no longer the case (see paragraphs 2.6 and 2.38 to 2.46).

## Distribution of funding

**4.42** Given the discretionary nature of Ministerial approvals under the Strategic Regional Program, 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.

**4.43** The 495 applications received in the 2006 application round involved projects in or affecting 103 Federal electorates (69 per cent of electoral divisions). Significant features of the applications were that:

- consistent with the AusLink White Paper objective that the regional strategic funding stream enable regional and outer metropolitan areas in particular to derive a greater benefit than under the existing R2R program from focussed investments in regional projects, the largest proportion (73 per cent) of applications related to projects either fully or partially located in electorates categorised as 'rural'. Less than six per cent of applications were located in an inner metropolitan electorate;
- at the time of the 2006 application round, rural seats were predominantly held by the Coalition parties and, consistent with this circumstance, the majority of applications (74 per cent) related to projects either fully or partially located in one or more Coalition-held electorates. Projects located entirely in Coalition-held electorates represented 67 per cent of applications; and
- the only inner metropolitan electorate in which a project approved for Program funding in 2006 was located was the marginal ALP-held seat of Swan in Perth. Both of the two projects located in that electorate approved in 2006 were also partially located on the neighbouring marginal Liberal-held electorate of Hasluck, which is categorised as outer-metropolitan. Both electorates changed hands at the 2007 Federal election.

**4.44** Of the projects included in the potential funding package proposed by the department in October 2006, 88 per cent were fully or partially located in Coalition-held electorates, with 83 per cent being located entirely in Coalition-held electorates (involving 72 per cent of the total proposed Program funding). Similarly, the projects approved for funding by the then Minister also favoured those from Coalition-held electorates: 88 per cent of the approved projects were fully or partially located in Coalition-held electorates, whereas 80 per

cent of approved projects (involving 73 per cent of the total amount approved) were located entirely in Coalition-held electorates. This compared to projects fully or partially located in Coalition-held electorates representing 74 per cent of applications, and projects entirely located in Coalition-held electorates representing 67 per cent of applications (see paragraph 4.42).

**4.45** Whilst the proportion of projects in Coalition-held seats approved by the then Minister was similar to that included by the department in its final 'package' of projects, the identity of these projects was considerably different. Specifically, 43 per cent of the projects in the potential package identified by the department were not approved by the then Minister in the 2006 funding round. Of the 28 projects the department had included in its 'potential package' but which were not approved, 20 had been rated *High*, with the remaining eight being rated *Medium*. Of the 49 projects the then Minister approved instead (none of which had been in the department's proposed 'potential package'):

- 43 (88 per cent) were either fully or partially located in a Coalition-held electorate<sup>164</sup>; and
- 34 (69 per cent) of the 49 approved projects had not been rated *High* against the Program Guidelines by the department. Of these, 21 had been rated *Medium* and 13 were rated *Low*. The significant majority of these *Medium* and *Low*-rated projects (30 projects or 88 per cent) were either fully or partially located in a Coalition-held electorate.<sup>165</sup>

**4.46** In total, projects were approved for funding in 54 Federal electorates in the 2006 funding round.<sup>166</sup> Of these electorates, the significant majority (42 or 78 per cent) were held by one of the Coalition parties, with nine being ALP-held electorates (17 per cent) and three seats held by Independents also benefiting through the award of funding. Of the 49 Federal electorates in respect to which applications were made, but for which no projects were approved, 26 were held by the ALP (53 per cent), with the remainder held by the Liberal Party (23 or 47 per cent).

<sup>164</sup> Of those, 36 projects were solely in a Coalition-held electorate, with a further seven projects being located across two or more electorates, of which at least one was Coalition-held.

<sup>165</sup> Of those, 24 projects were solely in a Coalition-held electorate, with a further six projects being located across two or more electorates, of which at least one was Coalition-held.

<sup>166</sup> This includes the electorate of Flynn which was created through the 2006 re-distribution of Queensland electoral divisions and was first contested at the 2007 Federal election.

## Success rates

**4.47** As illustrated by Table 4.3, applications that involved a project affecting a Coalition-held electorate had a significantly higher rate of approval in 2006 than those affecting an ALP-held electorate or an electorate held by an Independent.

**Table 4.3**

### Application approvals by political party: 2006 funding decisions

Party holding the electorate in which the project was located	Number of applications	Number of projects approved: 2006	Approval rate
Coalition	367	76	20.7%
ALP	97	11	11.3%
Independent	64	6	9.4%
<b>Total</b>	<b>528<sup>1</sup></b>	<b>93<sup>2</sup></b>	<b>17.6%</b>
Notes: 1. Total is greater than the 495 applications received due to 20 projects being located in both a Coalition-held electorate and an electorate held by the ALP, and a further 13 projects being located in both a Coalition-held electorate and an electorate held by an Independent. 2. Total is greater than the 86 projects approved in 2006 due to three projects being located in both a Coalition-held electorate and an electorate held by the ALP, and a further four projects being located in both a Coalition-held electorate and an electorate held by an Independent.			

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

**4.48** The higher success rate for projects in Coalition-held electorates was also reflected in Coalition-held electorates being more likely to have multiple projects approved. Specifically, there were 31 electorates in which two or more projects were approved for funding, of which 26 were held by one of the Coalition parties (84 per cent).<sup>167</sup> Further, of the 13 electorates in which three or more approved projects were located, only one was held by other than a Coalition party (the Safe Independent held seat of New England).<sup>168</sup> The result was that 86 per cent of the \$127 million in available funding was awarded to projects that were either fully or partially located in electorates held by one of the Coalition parties, compared to applications for projects either fully or

<sup>167</sup> By way of comparison, there were 70 electorates in respect to which two or more applications had been received, of which 51 (73 per cent) were held by one of the Coalition parties.

<sup>168</sup> That is, Coalition-held electorates represented 92 per cent of the electorates in respect to which three or more applications were approved in the 2006 funding round. By way of comparison, there were 58 electorates in respect to which three or more applications had been received, of which 43 (74 per cent) were held by one of the Coalition parties.



partially located in Coalition-held electorates having represented 76 per cent of the total funding sought in the 2006 application round.

**4.49** The above circumstances, combined with the absence of documented reasons for the decision to award funding to projects not rated highly against the published criteria (and, equally, not to award funding to other projects that were rated highly), leaves such decisions open to the interpretation that they had been made for political reasons and not on the merits of the project. As noted, the financial framework applying to funding decisions for grants was enhanced with effect from 1 July 2009 to require decision-makers to record the substantive reasons for their approval, having regard for the relevant statutory obligations that regulate the approval of spending proposals, in addition to the factual terms of the approval.

## Project results

**4.50** As discussed, the Program Guidelines stated that:

- when assessing applications, consideration would be given to the reliability of the project costing; whether the project was feasible within those costs; the relevant technical standards to be met; as well as the degree of planning already undertaken to enable the project to be completed within the specified timeframe; and
- proposed works must be able to be completed by the first quarter of 2009, with final reports (other than audited statements) to be lodged by 20 June 2009.

**4.51** However, as also discussed, the application process did not provide a strong basis for rigorously assessing applications against those parameters (see paragraphs 3.56 to 3.59). The shortcomings in the departmental assessment of these aspects of applications submitted to the 2006 call for applications have been highlighted by the project and timeline outcomes achieved in relation to projects that were approved in the 2006 funding round.

## Project timelines

**4.52** Both Large and Small Projects were assessed against a criterion of 'clear construction timelines and relevant construction standards'. The department rated both eligible Large Projects that proceeded to Detailed Assessment, and

eligible Small Projects, in terms of their timeline risk, which was the risk of the project not being completed by the deadline stipulated in the published Guidelines.<sup>169</sup> The significant majority (94 per cent) of all projects assessed in terms of their timeline risk were rated as representing a *Medium* or lower risk of not being completed by June 2009.<sup>170</sup>

**4.53** A similarly high proportion of the assessed projects that were approved for funding in 2006 had been rated by the department as representing a *Medium* or lower timeline risk. Specifically, one approved project had been rated as representing a *High* timeline risk, but the remaining 85 of the 86 approved projects had been rated *Medium* or better in terms of their timeline risk (14 per cent were rated as *Medium* risk; 27 per cent were rated as *Medium-Low* risk and 58 per cent were rated as *Low* risk).

#### *Risk assessments not supported by outcomes*

**4.54** ANAO analysis shows that the department's assessments did not prove to be a reliable indicator of the likelihood that a project would be delivered on time. Specifically, construction work for 32 projects (37 per cent of projects approved in the 2006 round) had not been completed by the end of the first quarter of 2009 (the completion date required under the Guidelines). The majority (78 per cent) of these projects had been assessed as representing a *Low* (44 per cent) or *Medium-Low* (34 per cent) timeline risk. As there were relatively few projects assessed by the department as involving significant construction timeline risks, there was no significant difference in the proportion of approved projects that the department had rated *Low* overall that were delayed in delivery compared with those approved projects the department had rated overall as *Medium* or *High*.

**4.55** Significantly, three of the projects approved in the 2006 round that had been assessed by the department as representing a *Low* risk of not being

---

<sup>169</sup> The Guidelines had stipulated that, to be funded in the 2006 competitive round: 'Proposed works must be able to be completed by the first quarter of 2009, with final reports (other than audited statements) to be lodged with the Australian Government Department of Transport and Regional Services, by 20 June 2009.' Despite the clear provisions of the published Guidelines, the departmental assessment of timeline risk assessed whether the project construction works were likely to be completed by 30 June 2009, rather than by the first quarter of 2009.

<sup>170</sup> This was comprised of: 13 per cent of applications being assessed as *Medium* risk; 27 per cent as *Medium-Low* risk and 54 per cent assessed as *Low* risk of not being completed by the required deadline. In total, three per cent of projects were rated *High* risk in terms of their timeline risk, with 2 per cent of projects being rated a *Medium-High* timeline risk. Note: figures do not add to 100 per cent due to rounding.

completed by the first quarter of 2009 had not, as of November 2009 (some three years after being approved for funding) progressed past the design stage. The three projects were:

- the City of Swan's application for \$10 million towards total estimated costs of \$22.9 million to extend Lloyd Street in Perth (see footnote<sup>171</sup>). The project was not included in the department's potential package of projects but was approved for funding by the then Minister in the 2006 funding round.<sup>171</sup>. Although rating the project *Low* overall (instead of *Medium*) due to the lack of written confirmation of State government co-funding, the departmental assessment did not identify any risks with the project timelines or cost estimate proposed in the application. However, both were subsequently shown to be unachievable, particularly due to the lack of adequate provision for land acquisition costs and timeframes (neither of which was rigorously examined to properly inform the assessment of *Low* to *Medium* engineering risk). As at March 2010, the project still had not proceeded to the construction stage;
- Yarra Ranges Shire Council's Bayview Road Belgrave Roundabout project (located in the marginal Liberal electorate of La Trobe) which had been approved for \$333 000 in Program funding towards total estimated costs of \$500 000. This project had also not been included in the department's final potential package of projects for funding. The department had rated the project as *Medium* overall, but with a *Low* timeline risk. As at November 2009, the project remained at the design and approval stage with Council's most recent (October 2009) progress report advising that the tender process for construction work was not due to be completed until February 2010. In March 2010, the department advised ANAO that the project was now expected to be completed by mid-2010; and
- a further project from Yarra Ranges Shire Council (Wray Crescent Mt Evelyn, located in the then Safe Liberal seat of Casey) was also still at the design and approval stage with Council's most recent (October 2009) progress report advising that the tender process for construction work was not due to be completed until January 2010. The project had

<sup>171</sup> The project is located in the then marginal Liberal electorate of Hasluck and the then marginal ALP electorate of Swan.

been rated *High* overall by the department, with a *Low* risk of not being completed by June 2009, and had been in its final potential package with a Program contribution of \$573 000 towards total project costs of \$860 000. In March 2010, the department advised ANAO that the project was now expected to be completed by mid-2010.

**4.56** One factor in project delivery delays was that the departmental assessment of timeline risk did not take into account the extensive delay between the submission of applications (closing on 1 May 2006) and the taking of funding decisions in December 2006. This was exacerbated by the further delays that typically occurred between the Ministerial approval of project funding being announced and approved projects then obtaining formal approval under the land transport legislation and having the Funding Agreement signed. This placed Councils in a difficult situation given they had to incorporate the approved project into their works schedule, but were not supposed to commence work until the Funding Agreement was signed. This was made more challenging for those Councils where weather plays a critical role in their construction works program.

## **Project scope and associated costs**

**4.57** Departmental assessments of the reasonableness and robustness of applicants' project cost estimates also proved unreliable. Similar to project timelines risk, the significant majority (95 per cent) of projects approved in the 2006 funding round had been assessed as representing a *Medium* or lower risk in relation to whether the project cost estimate included with the application was expected to be reliable and adequate for the proposed works.

**4.58** However, 72 per cent of projects (62 projects) approved for funding in 2006 have been, or are expected to be, completed at a cost greater than the original estimate. In addition, 26 of the projects with increased cost have also had their scope reduced. A further three projects remained within the original cost estimate, but only due to the scope being reduced. As a result, in aggregate, 65 projects (76 per cent of projects approved for funding in 2006) were not (or are not being) delivered in full for the estimate included with the funding application.

**4.59** Significantly, projects rated by the department as involving a *Low* cost risk were more likely to exceed the estimate set out in the application than those rated as being at a *High* or *Medium High* cost risk. Specifically, 86 per cent of projects approved in 2006 that were rated as having a *Low* cost risk have

been, or are expected to be, completed at a higher cost. This compares to 75 per cent of projects approved in 2006 that were rated as being at a *High* or *Medium* cost risk. Similar proportions of the projects rated *Medium* and *Medium-Low* in terms of their cost risk have been, or are expected to be, completed at a higher cost (70 per cent for projects rated *Medium* and 71 per cent for projects rated *Medium-Low*).

*Insufficient data obtained for assessment*

**4.60** A key factor in the departmental assessments not accurately indentifying the likely risk of cost increases was that the application process did not obtain the necessary data for an informed assessment of the project scope and its estimated cost (an example is set out in Table 4.4).

**Table 4.4**

**Case study of cost and timeline risk assessments based on inadequate information not being supported by achieved outcomes**

Gold Coast City Council applied for \$3.5 million towards the estimated \$5 million cost of a project titled 'Stanmore Road Improvements'. Overall, the department rated the application as *Medium* against the assessment criteria (construction cost risk was also rated *Medium*, with a *Low* timeline risk) and it was approved in the December 2006 round. The application had identified that the project would upgrade the alignment and pavement of Stanmore Road, and that this road linked the Pacific Motorway at Yatala to the Beenleigh-Beaudesert Road at Wolffdene. The application did not provide, and the department did not otherwise seek, details concerning the actual work that was proposed (such as the length of road). Despite this, the engineering assessment rated construction cost risk as only *Medium*, noting that:

There is no detailed breakdown of costs and no description of the project that would allow an independent estimate to be made, however, scaling the distance from UBD, the overall cost allows \$130 000 per kilometre for realignments and pavement strengthening over about 38 kilometres and this, in the assessor's professional engineering judgement, appears reasonable for a road of this type in this terrain.

On 16 April 2007, Council advised the department that the Funding Agreement should state that the project would upgrade approximately 0.8km of the alignment and pavement of Stanmore Road between Peachey Road and the Beenleigh-Beaudesert Road at Yatala and Luscombe to a sealed width of 24.6 metres including a 6 metre central median and a pavement width of 27.6 metres; and that the work is a precursor to subsequent duplication of the road. Council also provided the department with a copy of the proposed drawings detailing the upgrade. On this basis, the departmental assessment had overstated the length of road to be constructed by a factor of more than 47.

The scope of the project subsequently changed during its delivery. The increased scope was approved in January 2009 by the Minister for Infrastructure, Transport, Regional Development and Local Government. In respect to the increased scope of works, Council advised ANAO that:

When reviewing the project schedule for signing, it was noticed that the project scope within the Funding Agreement's approved schedule varied from the designed project. The extent of road to be upgraded had increased by 650 metres and the sealed pavement width of the road had changed from 24.6 metres to 24 metres.

As a result, the project budget had been increased by Council from the \$5 million set out in the May 2006 application to \$13.75 million, with the extra costs being funded by Council.

Note 1: The department's assessment that the project represented a *Low* timeline risk also proved to be in error. Council advised ANAO that: 'When the design had progressed to the point where the land acquisition impacts were fully understood, it was evident that the affected land owners did not support the proposed road alignment. Protracted negotiations to secure the required land would have impacted significantly on project delivery timelines. To progress the project, Council modified the road alignment to achieve both a better land acquisition and road geometry outcome. The date for project completion had to be extended to June 2009 given the delays incurred with finalising the design based on the revised alignment.'

Source: ANAO analysis of departmental records and advice to ANAO from Council.

**4.61** Another example involved the Maria River Road Link Project, submitted by Kempsey Shire Council for \$980 000 in Program Funding with a total estimated project cost of \$1.2 million. The application stated that:

The road is sealed on the Northern end for a distance of 5km and the remaining 25km is an unsealed gravel surface. The 25km section of unsealed road comprises of 12km of a poorly formed gravel section of road within

Kempsey Shire. The remaining 13km of unsealed road within Port Macquarie Hastings Shire has been reconstructed to a high standard gravel road...The importance of Maria River Road as a link between the two LGAs is now increasingly apparent, and the upgrade of this significant potential road link, is imperative to meet the current and future growth of this area.

**4.62** However, the application didn't actually state the dimensions of the road to be upgraded or what type of upgrade this would involve for the identified project budget of \$1.2 million. The departmental engineering assessment was internally inconsistent in relation to the project scope. The assessment against the criterion 'Clear construction timelines and relevant construction standards' stated: 'The project involves construction and sealing of 25km of tourist road.'<sup>172</sup> However, the construction costs criterion was rated a *Medium* risk, on the basis that:

No detailed breakdown of the estimated cost has been provided. It is not clear if the application is to seal the road or simply to resheet it with gravel. If it is to be sealed then the estimate allows \$100,000 for the 12 kms in Kempsey Shire, which, in the assessor's professional engineering judgement, is barely sufficient for the construction and sealing of this road even to a tourist standard. If, however, the application is for gravel re-sheeting, then the estimate is quite sufficient but the project is then a MAINTENANCE project. The assessor's opinion is that it should be treated as an application for sealing.<sup>173</sup> [*Emphasis as per original*]

**4.63** On this basis, the department had advised the then Minister that the project involved upgrading of part of the road to a sealed link. The Minister approved funding for the project in the 2006 funding round. During negotiation of the Funding Agreement, Council advised that the project actually involved the rehabilitation of that part of the road in its Shire to 'a high gravel standard'. The department advised the Minister in October 2007 that its 2006 assessment that the project involved sealing had been:

<sup>172</sup> This was a further assessment error, as the application had stated that: 'The remaining 13km of unsealed road within Port Macquarie Hastings Shire has been reconstructed to a high standard gravel road'. During preparation of the Funding Agreement, in response to a query from the department as to whether the project scope involved the full 25 kilometres of gravel road covering both shires, Kempsey Shire Council advised that the project scope related only to the approximately 12 kilometres in its Shire.

<sup>173</sup> In this respect, the Guidelines stated: 'Maintenance works may be supported. However, priority may be given to capital works proposals over submissions for maintenance works.' The basis for the engineering assessment concluding that the project should be treated as a sealing project was not documented.

based on what is now an apparent misunderstanding of the application, arising from a lack of clarity about the specific nature of the works and some conflicting evidence in the letters of support.

**4.64** At the time of ANAO's October 2009 site visit, the gravel rehabilitation work had been recently completed, but the replacement of a bridge (with culvert pipes) remained to be undertaken (see Figure 4.1). The need to replace the bridge was not identified by the department in its assessment.

**Figure 4.1**

**Maria River Road Link Project, Kempsey Shire Council, NSW**



Source: ANAO site visit photo, October 2009.

### ***Basis for cost estimates***

**4.65** Another factor that adversely affected whether projects were delivered within the cost estimate included with the application was that there was no clarity provided by the Program Guidelines or application form as to whether project estimates were to be prepared in out-turn costs or current year dollars.

**4.66** In this respect, the Guidelines stated that Australian Government funding would be capped in current year dollars. There is some evidence that this may have led to unrealistic assessments of project budgets by not focussing assessments on the out-turn cost or establishing the real basis for the costing (including whether any contingency allowance took account of likely cost increases over the life of the project, as well as cost increases that had already occurred since the budget estimate had been framed).



**4.67** As outlined in ANAO Audit Report No. 29 2008–09, in November 2006, the then Minister for Transport and Regional Services had announced that a review of Queensland estimating services would be undertaken.<sup>174</sup> This review was in response to significant cost increases in the estimated cost of major AusLink projects in Queensland. Subsequently, in 2007 the department commissioned the development of a standard for ‘best practice project cost estimation for publicly funded road and rail construction projects’. The final report was provided by the Minister for Infrastructure, Transport, Regional Development and Local Government to the States in October 2008.<sup>175</sup>

**4.68** The cost estimating standard states that project owners/managers often look for a P90 figure for capital budgets (that is, the contingency allowance<sup>176</sup> on top of the base estimate is sufficient to ensure that there is a 90 per cent chance that the total estimate will not be exceeded). In this respect, the cost estimation standard recommended that both P50 and P90 estimates (or their equivalent) be provided in any submission for Australian Government funding. This means that, even where there has been sound project management and cost planning, it is probable that the overall estimate will be exceeded:

- for half of all projects where a P50 estimate is used; and
- for one out of ten projects where a P90 estimate is used.

**4.69** Against this background, there would be benefits in the cost estimating standard being adopted for all land transport funding programs administered by the department.

---

<sup>174</sup> ANAO Audit Report No. 29 2008–09, op. cit., p. 110.

<sup>175</sup> *ibid.*, p. 111.

<sup>176</sup> Risk is a measure of uncertainty and a contingency allowance is used to cover risk. The two basic requirements to set a contingency allowance are the risk profile inherent in the project and the level/probability of the risk occurring. This latter issue can be addressed either through a deterministic approach (that is, manually applying a percentage) or probabilistic approach (that is, using ranges and a computer program).

## Recommendation No.4

4.70 ANAO *recommends* that the Department of Infrastructure, Transport, Regional Development and Local Government provide a feedback loop for departmental assessment practices by compiling and reporting performance information on the extent to which projects have been or are being completed in accordance with the timeline, scope and estimate relied upon when decisions are made to award Australian Government funding to projects.

*DITRD LG response:*

4.71 Agree.

## 5. 2007 funding rounds

---

*This chapter examines the processes by which \$250 million in additional Program funding announced in the May 2007 Budget was allocated to projects in the third funding round (most, but not all, of which related to applications submitted to the March 2006 call for applications), and the results that have been achieved. It also examines the \$1.77 million in new projects funded in 2007 from project savings and re-allocations within the Program, through the fourth funding round.*

### Introduction

**5.1** The 2007-08 Federal Budget was delivered on 8 May 2007. The Budget included two expense measures relating to the Strategic Regional Program:

- additional funding of \$250 million in 2006-07 with a fiscal impact over three years from 2007-08 to 2009-10, which was said to be ‘due to funds being fully expensed as projects are completed’; and
- a further \$300 million over five years from 2009-10<sup>177</sup> to continue the Strategic Regional Program as part of a second five-year AusLink program (known as AusLink 2). The \$300 million was to be allocated in two \$150 million application rounds to be held in 2009-10 and 2011-12.<sup>178</sup>

**5.2** In announcing the additional \$250 million in Program funding for the then current financial year (2006-07), the then Minister for Transport and Regional Services and then Minister for Local Government, Territories and Roads indicated that the funding would be used to allow funding to be offered to unsuccessful applications to the over-subscribed 2006 competitive round. Specifically, the then Ministers stated:

...We received far more applications than we could fund. As a result of the extra funding in 2006-07, we will be able to make more funding offers in response to applications we have received from councils.

---

<sup>177</sup> The funding profile involved \$20 million in 2009-10, \$25 million in 2010-11, \$75 million in 2011-12, \$80 million in 2012-13 and \$100 million in 2013-14.

<sup>178</sup> 2007-08 Budget Paper No. 2, *Budget Measures 2007-08*, 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 2007-09, 8 May 2007, pp. 296-297.

The Government will announce the successful projects in the near future. Councils receiving the extra funding will have to provide, or otherwise secure, partner funding to the level agreed in their original application. They will also have to conclude a funding agreement with the Australian Government before 30 June 2007.<sup>179</sup>

**5.3** Whilst the 2007 Budget funding of \$250 million was close to twice the amount that had been available through the 2006 round, the period that elapsed between the department first being asked to provide Ministers' Offices with information on projects that could be funded in 2007 and the initial decisions being made as to which projects were to be offered funding was two and a half weeks (17 days). This compared to the ten month duration of the 2006 assessment and decision-making process. This timeline was driven by the fact that the additional appropriation announced in the 8 May 2007 Budget was allocated to the then current 2006-07 financial year, with the intention of paying all funds to funding recipients by 30 June 2007.

**5.4** In this context, there was no documented consideration of the risks, costs and benefits of the significant truncation to the timeframe over which projects to be offered Strategic Regional Program funding were to be identified and approved, or the manner in which this was to occur.

**5.5** A further consideration is that the adoption of competitive funding rounds is generally seen as assisting to promote equity of access to public funding through the open and transparent communication of opportunities to seek funding.<sup>180</sup> In that context, it is common for competitive grant rounds to be oversubscribed, in that the total funding sought by applicants exceeds the amount available. Not all applications will necessarily satisfy the program's selection criteria or may not satisfy them to an acceptable level. Equally, there may be a number of competing high quality applications. In those circumstances, robust, transparent and accountable selection processes will be important in determining which applicants will be successful in accessing the available funding.

---

<sup>179</sup> Mark Vaile, Deputy Prime Minister and Minister for Transport and Regional Services and Jim Lloyd, Minister for Local Government, Territories and Roads, *Regional Roads: Building for the Future*, Joint Media Release 009/TRS Budget, 8 May 2007.

<sup>180</sup> ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, op. cit., p. 28.

**5.6** Where additional funding is subsequently made available for the relevant program, the principles of value for money, probity and accountability will be promoted by:

- in circumstances where it is proposed to re-consider funding for applications that were submitted under a previous funding round, providing applicants with the opportunity to advise whether they wish to continue with the application and, if so, update any details (such as projected timeframes, estimated costs and the amount of any partner funding); and
- where new applications are to be considered, providing potential applicants with equitable access to this opportunity.

**5.7** In that process it is important for agencies and Ministers to remain cognisant of the fact that, given the requirements of the financial framework, only eligible applications that demonstrably provide value for the public money involved should be approved, even if there are insufficient applications of adequate quality available to exhaust the available appropriation within a required timeframe. Applications that do not satisfy the assessment criteria set out in the published Program Guidelines, or in respect of which no inquiries have been undertaken, are unlikely to meet the requirements under FMA Regulation 9 (and, from 1 July 2009, the CCGs).

## Identification of projects available to be funded in 2007

**5.8** As noted, in announcing the additional \$250 million in Strategic Regional Program funding, the then Ministers indicated that it would be used to enable additional funding offers to be made to applicants to the over-subscribed 2006 competitive round. There was no general call inviting Councils to apply for access to the additional \$250 million in Program funding, and no provision was made for any additional departmental assessment processes.

**5.9** While the majority of projects funded through the 2007 Budget round were selected from those that had been unsuccessful in the 2006 application round:

- others related to unsolicited proposals received after the 2006 round had closed to applications; and

- a small number of Councils were provided with the opportunity in May 2007 to apply to their local Federal Member for funding (discussed further at paragraphs 5.24 to 5.32).

## Advice provided to unsuccessful 2006 applicants

### 5.10 ANAO's Administration of Grants Better Practice Guide advises that:

Making the reasons for decisions of successful projects publicly available enhances the accountability and transparency of grant programs. Reasons for not selecting unsuccessful applications should also be made available to the relevant applicants if requested. Together with the publication of reasons for selection of successful projects, this assists applicants in preparing any future application.<sup>181</sup>

5.11 The 2006 application round was significantly over-subscribed. In total, 409 projects (83 per cent of all applications) were not approved for funding in the 2006 round announced in December 2006. Of those, 32 had been rated overall by the department as meeting the Program criteria to a *High* degree, with a further 39 projects having been rated overall as *Medium*. However, the significant majority of unsuccessful applications (338 projects, 83 per cent of unsuccessful applications) had been either assessed as ineligible or rated *Low* when considered against the criteria set out in the Program Guidelines (see Table 5.1). These 338 projects comprised:

- 30 projects assessed as being ineligible under the Program Guidelines;
- 55 Large Projects that were rated *Low* following the Initial Review stage such that they were not subject to a Detailed Assessment against the published assessment criteria (and were not to be considered for funding) (see paragraphs 4.8 to 4.11);
- 12 projects that would have been otherwise rated *High* (nine projects) or *Medium* (three projects), but which were rated *Low* overall because the stakeholder funding proposed in the application had not been confirmed in writing, which had been stipulated in the Program Guidelines as a requirement for Large Project applications seeking more than \$1 million in Program funding and all projects on State infrastructure (see paragraphs 3.45 to 3.48); and

---

<sup>181</sup> ANAO Better Practice Guide—Administration of Grants, May 2002, op. cit., p. 48.

- 241 projects that had been rated *Low* following the department's Detailed Assessment of the application against the criteria set out in the Program Guidelines, due to failing to meet and/or only barely meeting one or more criteria and/or representing a high timeline or cost risk.

**Table 5.1**

**Departmental rating of unsuccessful applications to the 2006 round against the Program Guidelines**

2006 assessment rating against the Program Guidelines		Number of unsuccessful applications	Total unsuccessful applications
High		32	32
Medium		39	39
Low	Rated <i>Low</i> at the Initial Review assessment stage, and therefore did not proceed to the detailed assessment stage.	55	308
	Rating reduced to <i>Low</i> due to failure to meet Guidelines requirement for written confirmation of stakeholder funding.	12	
	Rated <i>Low</i> based on detailed assessment against the criteria set out in the Guidelines due to not meeting and/or barely meeting one or more criteria, and/or representing a high cost or timeline risk.	241	
Ineligible		30	30
Total unsuccessful applications to 2006 application round			409

Source: ANAO analysis of departmental data.

**5.12** The projects that were successful in the 2006 funding round were announced in late 2006. For each unsuccessful application, form letters advising of that outcome were sent by the department to the relevant Council in early 2007. These letters did not advise proponents of the reasons their project or projects had not been approved for funding. Rather, each unsuccessful proponent was advised that:

The funding round was highly competitive with significantly more demand than the available funding of \$127 million. The Department of Transport and Regional Services received 495 applications seeking over \$1 billion in Australian Government contributions towards a total estimated project investment of over \$2 billion. There were many high quality applications. Your applications, along with many others, have not been preferred on this occasion.

**5.13** This approach did not promote transparency in respect of the 2006 round application assessment and decision-making processes. In particular, the approach taken meant that:

- proponents whose application had been assessed as being of low quality could have mistakenly believed that their project had been considered to be of high quality, but that it had not been preferred when considered in a competitive context against other highly-rated projects. Consequently, proponents were not made aware of deficiencies in the application that would need to be addressed in order for any applications to future rounds of the Strategic Regional Program or similar grant programs to be rated more highly;
- proponents with ineligible projects were similarly not provided with feedback that could have been of value to them in terms of any future funding rounds for the Program, or for applications to other Australian Government Programs that had similar eligibility requirements; and
- proponents whose project was reduced from an overall rating of *High* or *Medium* to *Low* due to their failure to provide written confirmation of partner funding were not advised that this shortcoming had had a significant adverse impact on the consideration of their application.<sup>182</sup> In this respect, one of the alternative approaches to formulating a package of funded projects proposed to the then Minister by the department (see paragraph 4.17) was to include the projects that had been rated *High* against the other criteria, but which had not provided evidence of confirmation of stakeholder funding commitments. In this respect, the department advised the then Minister that, of the Large Projects reduced to a *Low* rating on that basis:

There are 3 projects identified which, when examined against the programme objective filters, are similar to the best of the High rated projects. These are:

- Alpine Shire Council (Vic)—Bogong High Plains Road (\$4.21m sought of \$9.98m total);
- Plantagenet Shire Council (WA)—West Australian Great Southern Timber Industry Road Evaluation Strategy (\$6.55m sought of \$12.77m total); and

---

<sup>182</sup> Nor were they advised that this requirement had been waived for other applicants (see, for example, paragraph 3.48).



- Wattle Range Council (SA)—Penola Bypass Project (\$10.0m sought of \$25.26m total).

**5.14** Ultimately, the then Minister chose to approve funding for the Bogong High Plains Road project in the 2006 round, but not for the other two projects.<sup>183</sup>

**5.15** Unsuccessful applicants were also not advised that their applications might be still be considered for funding should the amount allocated to the Program be increased. The Program Guidelines issued in March 2006 also did not contemplate this occurring.

### **Information provided to the Minister's Office on unsuccessful 2006 applications**

**5.16** On 24 April 2007 (prior to the May 2007 Budget announcement of additional Strategic Regional Program funding), the department responded to a request from the Office of the then Minister for Transport and Regional Services by providing the Office with information on various projects that had not been funded in the 2006 round. This information, provided in two lists, comprised:

- a list of 31 projects that had been ineligible for funding in the 2006 funding round and, accordingly, had not been assessed or rated against the criteria set out in the Guidelines. The list identified the proponent Council, project name, amount of funding sought, total estimated project cost and the reason for ineligibility. The 31 projects comprised:
  - 20 applications from the 2006 round that had been assessed as ineligible under the Program Guidelines, together with the reason why the application had been assessed as ineligible;
  - nine applications that had been received after the nominated closing date for applications to the 2006 round and therefore assessed as ineligible, but which the department considered

<sup>183</sup> As the basis for the selection by the then Minister of projects to be funded in the 2006 round was not documented, there is no record as to how it was determined that the requirement for written confirmation of co-funding stipulated in the Guidelines should be put aside for the Bogong High Plains Road project (located in the, at that time, safe Liberal Party held seat of Indi and fairly safe National Party held seat of Gippsland, and in relation to which there had been lobbying of the Minister during 2005 and 2006), but not for the other two projects noted by the department, while at the same time approving other Large Projects in the 2006 round that the department had assessed as being of low overall quality.

would have been eligible had they been received by the application closing date; and

- two unsolicited proposals that had been received outside the 2006 round.<sup>184</sup> Other proposals that had been received since the 2006 application round had closed were not identified to the then Minister's Office; and
- a list of eligible but unsuccessful applications to the 2006 round. For each project, the list identified the proponent Council, project name, amount of funding sought, total estimated project cost and whether the departmental assessment had identified any *High* or *Medium* engineering risks. The list grouped the unsuccessful applications by:
  - State;
  - project size (that is, whether the project was a Large or Small Project, as defined in the Guidelines based on the amount of Program funding that had been sought); and
  - whether the departmental assessment had rated the project as *High*, *Medium* or *Low* quality when considered against the Program criteria or, for Large Projects, whether the project had been rated *Low* at the Initial Review stage such that it had not proceeded to the Detailed Assessment stage.

**5.17** Collectively, the unsuccessful applications to the 2006 round that had been rated as either *High* or *Medium* against the Program Guidelines had sought total Program funding of \$186.2 million, compared to the \$250 million in additional funding that was available to be allocated in the 2007 Budget round.

**5.18** In providing the project lists, the department did not provide any advice to the then Minister or his Office in relation to whether it would be likely to be in accordance with the Minister's obligations under FMA Regulation 9 to consider the approval of funding for applications that:

---

<sup>184</sup> These related to the Broome-Cape Leveque Road project submitted by Shire of Broome in November 2006 and the Hillston-Eumungerie Regional Road Link project submitted by Lachlan Shire Council in November 2006. Subsequently, on 1 May 2007, at the request of the then Minister's Office, the department provided the Office with a copy of the two unsolicited proposals. One of these projects (the Hillston-Eumungerie Regional Road Link project) was approved for funding of \$6.7 million by the then Minister for Local Government, Territories and Roads on 10 May 2007 (revised to \$6 666 667 million on 15 May 2007 (see further at footnotes 201 and 206 and paragraphs 5.63 to 5.66).

- had been assessed as ineligible under the published Guidelines under which the application had been made and, therefore, had not been further assessed by the department;
- had been rated *Low* following the Initial Review of Large Projects and, therefore, had not been subjected to a Detailed Assessment against the published criteria and were not to have been considered for funding;
- had been assessed against the published criteria and rated *Low* overall (generally due to failing to meet one or more criteria and/or being assessed as representing high engineering risks); and/or
- related to unsolicited proposals that had not been assessed by the department against any criteria.

**5.19** On 7 May 2007, the Office of the then Minister for Transport and Regional Services advised the department of an initial list of projects that were to be funded from the additional Program funding that was to be announced in the 8 May 2007 Budget. The Office advised that this was not yet the complete list, but would enable the department to commence the preparation of documentation for the funding offers. A finalised list of projects that were to be offered funding was provided to the department by the then Minister for Local Government, Territories and Roads on 10 May 2007 and revised on 11 May 2007 to exclude some projects. This represented the then Minister's approval of the spending proposals for the purposes of FMA Regulation 9. Approval of a further tranche of funding offers was given by the then Minister on 21 June 2007. This approval process is discussed further at paragraphs 5.45 to 5.79).

*Project details were not updated*

**5.20** There was also no documented consideration, either in providing the lists of projects or subsequent to the department being advised of the projects that were to be offered funding, of the risks involved in considering for funding applications that had been submitted 12 months earlier<sup>185</sup> without any steps having been taken to determine whether:

- the project had already proceeded such that Australian Government funding was no longer needed; and/or

<sup>185</sup> In addition, due to the short timeframe provided for the development of applications, many proposals submitted to the 2006 round had been based on studies or estimates that had been undertaken some months (or, in some cases, years) prior to the application process.

- the project scope, timeframe and/or total estimated project cost had changed.

**5.21** The resulting risks were realised in a number of instances after funding was approved in the May 2007 Budget round for projects that had been the subject of 2006 applications.

**5.22** For example, Peak Downs Shire Council had submitted a 2006 application seeking funding of \$11.5 million towards estimated total project costs of \$21.267 million for the Rolleston to Suttor Development Road Link via Morandah project.<sup>186</sup> Council was advised in early 2007 that the application had been unsuccessful; however it was subsequently approved by the Minister in May 2007. After being advised of the approval, Council advised the department that there were errors in the department's understanding of the project as set out in the Funding Agreement it had provided for Council's signature in order to accept the funding offer. Specifically, on 6 June 2007, Council advised that:

- the section of pave and seal works identified in the 2006 application as section 3-30 kilometres of the Rolleston—Blackwater Road was not intended to indicate the sealing of 27 kilometres (as the department had interpreted it in its 2006 assessment and the May 2007 funding offer), but rather that the works planned to be undertaken within the proposed budget had been the sealing of 3.5 kilometres within the section. In addition, Council advised that these works had been completed in 2006-07; and
- the section of widening and overlay works identified in the 2006 application as section 99-119 kilometres of the Rolleston—Blackwater Road was not intended to indicate works along the full 20 kilometres of that section (as the department had interpreted it), but rather 4.85 kilometres of works within the section in two parts. In addition, Council advised that these works had been completed in 2006-07 through the Queensland Department of Main Roads with full funding from Billiton Mitsubishi Alliance (as had been proposed in the application for that section of works).

---

<sup>186</sup> The project is located in the Federal electorates of Flynn, which had been created in the 2006 redistribution of Queensland electoral divisions and was to be contested for the first time at the 2007 Federal election, and the ALP-held seat of Capricornia.

**5.23** Another example related to Burdekin Shire Council's Beach Road project for which Council had sought \$980 000 towards total estimated project costs of \$1.466 million to seal a 6.8 kilometre section of the road. The April 2006 application had advised that the first two kilometres of work was ready for construction to commence in 2006-07 and that in-house survey and design of the remaining 4.8 kilometres was programmed to commence in October 2006, with a design period of three months. The application was not successful in the 2006 funding round, but was approved by the then Minister in May 2007 for the originally proposed scope of works without the department or the Minister's Office seeking any update from Council as to whether any of the works had already commenced in accordance with the timeline advised in the original application. In this respect, Council advised ANAO that:

The extent of works detailed in the original May 2006 submission was for an 8.6 metre wide, 6.8 kilometre section of Beach Road from Darwen's residence to the township of Alva. This proposal is denoted by sections 1A and 1B on the attached plan.

Section 1A was constructed from September 2006 to January 2007 prior to the approval of the project in May 2007. Upon receipt of approval of Council's application the Department of Infrastructure, Transport, Regional Development and Local Government (DITRDLG) was contacted to clarify Council's position regarding the previously constructed section. Following discussions with the DITRDLG it was understood that section 1A was not to be included and the scope of works was amended to replace the section with a 2.8 kilometre section of the same road closer to the township of Ayr (sections 2A and 2B on the attached plan). No formal written advice was received confirming such discussions. The scope was also amended to a 7.6 metre wide sealed pavement which reflected a decision made by the Burdekin Shire Council as a member of the North Queensland Regional Roads Group to adopt this width for their arterial roads. At this time, there was no mention or comment regarding the width of the road.

## **Selective call for new applications**

**5.24** As noted, the May 2007 Budget announcement included advice that the additional funding would be used to make more funding offers in response to applications to the 2006 round (see paragraphs 5.2 and 5.8). As also noted, there was no public announcement that there would also be opportunities to submit new applications for funding. This was notwithstanding that some Councils who had sought funding after the 2006 application round had closed

had been advised that these opportunities would be made available should additional funding be made available to the Program.<sup>187</sup>

*Letters from LGAs to certain Federal Members seeking funding*

**5.25** Whilst there was no open call for new applications, in May 2007 at least five Members of Parliament from marginal Liberal Party-held electorates were provided with an opportunity to obtain letters from one or more LGAs in their electorate seeking Program funding for nominated projects (see Table 5.2). Those letters were then provided directly to the then Minister for Local Government, Territories and Roads by the relevant Member.

---

<sup>187</sup> For example, in response to a 2 February 2007 request from the Shire of Broome for funding to upgrade the Broome-Cape Leveque Road, the then Minister wrote to Council on 1 March 2007 referring to an earlier meeting with Council and advising that: 'As the Broome-Cape Leveque Road is not on the AusLink Network, I made the point that the only program within the portfolio under which the Australian Government is able to provide funding is AusLink's Strategic Regional Program. For that reason and given the appropriateness of the Strategic Regional Program, I agreed that the Broome Shire Council provide a submission in the event the Australian Government provides more funding to this program in the future. I made clear to Council that applications closed several months prior. I could not have accepted an application for consideration in the current funding round so late in the assessment cycle without compromising the integrity of the program...As you may be aware, Strategic Regional Program funding has been allocated and successful projects recently announced. Accordingly, I am unable to consider road funding proposals from councils. Should additional funding become available councils will be asked to re-submit proposals in the application format required.'

Table 5.2

## Project applications provided to Members of Parliament: May 2007

Applicant	Application date	Submitted to	Project	Program funding sought	Total estimated project cost
City of Stirling	7 May 2007	Member for Stirling	Reid Highway and Mirrabooka Avenue intersection	\$10 000 000	\$24 000 000
Town of Gawler	9 May 2007	Member for Wakefield	Intersection of Para/Potts and Main North Roads	\$250 000	\$1 000 000 to \$2 000 000
City of Playford			Angle Vale and Heaslip Roads Intersection	\$1 010 000	\$1 010 000
Light Regional Council <sup>1</sup>			Main North Road	\$6 000 000	\$6 000 000
			Kapunda-Marrabel Road	\$3 000 000	\$3 000 000
Shire of Yarra Ranges <sup>2</sup>	9 May 2007	Member for La Trobe	Widen Wellington Road Lysterfield Rd and Clematis	\$8 000 000	\$8 000 000
Cardinia Shire Council			Bunyip State Forest: Gembrook - Tonimbuk Road Upgrade Section 2	\$2 000 000	\$2 000 000
City of Onkaparinga	10 May 2007	Member for Kingston	Aldinga Beach Road	\$450 000	\$1 400 000
			Bishops Hill Road and Chandlers Hill Road intersection	\$150 000	\$150 000
City of Ryde	10 May 2007	Member for Bennelong	Balaclava Road	\$509 760	\$509 760
			Cox's Road	\$239 400	\$239 400
			Wicks Road	\$280 800	\$280 800
Total				\$31 889 960	\$47 589 960 to \$48 589 960
Notes:					
1. In addition to the applications from Light Regional Council, Clare & Gilbert Valleys Council provided separate support letters to the Member for Wakefield on 9 May 2007 for each of these two projects.					
2. In addition to the application from Yarra Ranges Shire Council, Cardinia Shire Council provided a support letter to the Member for La Trobe on 9 May 2007.					

Source: ANAO analysis of departmental records and advice to ANAO from the relevant LGAs.

**5.26** The list of projects approved for funding through the 2007 Budget round provided to the department by the then Minister on 10 May 2007 (and

revised list provided on 11 May 2007) (see paragraphs 5.19 and 5.45 to 5.54) included each of the 12 projects listed in Table 5.2.<sup>188</sup> As Table 5.2 illustrates, one of the letters seeking funding for a project was dated prior to the Budget being brought down on 8 May 2007; two were dated 9 May 2007; with the remainder being dated 10 May 2007, the same day as the then Minister's original Minute to the department approving the funding.

**5.27** None of the 12 projects had been submitted for funding as part of the 2006 public call for applications.<sup>189</sup> In addition, none of the projects was subject to a departmental assessment against the published Program criteria<sup>190</sup>, either before or subsequent to the then Minister advising the department that he had decided that funding offers should be made in respect to those projects.<sup>191</sup> There is no record of any other form of departmental advice being sought in relation to the projects, or of the department being aware of the projects prior to being advised of the then Minister's approval of funding.

**5.28** Copies of the letters from the relevant LGAs to their local Member were subsequently provided to the department by the then Minister's Office. The available records do not identify whether any other similar letters had been received by the then Minister from Members of Parliament, but were not successful in obtaining funding.

#### Projects not adequately scoped or costed

**5.29** For a number of the projects identified in Table 5.2, the scope of works to be undertaken and total estimated project costs had not been adequately

---

<sup>188</sup> In one case, the proponent Council was unable to accept the funding offer of \$10 million by the required date of offer acceptance in June 2007 as it was not able to confirm the State Government funding Council had proposed in its letter. The funding offer was withdrawn and replaced with additional funding offers approved by the then Minister in June 2007 (see further at paragraphs 5.67 to 5.77).

<sup>189</sup> In two instances (the City of Ryde and the Town of Gawler), the relevant LGA had not submitted any applications for funding in response to the 2006 public invitation for project applications.

<sup>190</sup> For example, the City of Ryde advised ANAO that a Benefit Cost Ratio had not been undertaken for the three projects it had submitted to its local Member for funding 'as these works are not for new roads or traffic management measures, rather road pavement replacement to maintain levels of service and safety.' In this respect, the published Program Guidelines had stated that 'maintenance works may be supported. However, priority may be given to capital works proposals over submissions for maintenance works.' The department had downgraded its rating of some applications to the 2006 round on the basis that they were maintenance works rather than capital works.

<sup>191</sup> The available evidence is that there were other projects proposed but for which the relevant Council did not proceed to submit a letter of application to their local Member. Specifically, the City of Ryde advised ANAO that it: 'made direct representations to the local member seeking funding for the eleven projects listed below on 10 May 2007'. However, of these 11 projects, only three proceeded to be the subject of a letter of application from Council to the then Member for Bennelong.



defined or considered prior to the funding being approved and announced on the basis of the relevant Council's May 2007 letter to their local Member. For example, the City of Playford had written on 9 May 2007 to the then Member for Wakefield (at the request of the then Member) seeking \$1.01 million to improve traffic safety and reduce congestion at the Angle Vale Road and Heaslip Road intersection (the intersection was a State Government responsibility, but no other funding contributions to the project were identified).<sup>192</sup> However, in August 2009<sup>193</sup> Council advised the department that:

At the time that the offer was made a number of options were being considered for safety improvements at the intersection. Whilst there was some discussion between the former Member of Wakefield and the City of Playford on possible treatments to improve safety and the intersection, no detailed solution or costing occurred. It is this approach and the timing constraints brought about by the desire of the former Member for Wakefield to announce the funding that did not allow any detailed analysis or costing to occur.

**5.30** This advice was provided in the context of Council seeking an extra \$400 000 in Strategic Regional Program funding due to the cost of delivering the works being greater than the approved \$1.01 million grant (which had been paid to Council in full in June 2007). No additional funds were provided and, in September 2009, Council advised the department that the final cost of the project was \$1.54 million with the additional costs being met by Council (\$254 092) and the State Department (\$280 437).

**5.31** Similarly, the letter from the Town of Gawler of 9 May 2007 to the then Member for Wakefield highlighted uncertainties<sup>194</sup> about the Main North Road

<sup>192</sup> In this respect, the Program Guidelines issued in March 2006 had stipulated mandatory co-funding of at least 50 per cent of total estimated project costs for projects located on State Government infrastructure, and minimum co-funding of 30 per cent for projects on local roads seeking over \$1 million in Strategic Regional Program funding. As shown in Table 5.2, the City of Playford's 9 May 2007 letter to the then Member for Wakefield had not proposed any co-funding for the project. Four other projects listed in Table 5.2 similarly failed to satisfy the co-funding requirements stipulated in the Guidelines.

<sup>193</sup> Previous to this date, Council had advised ANAO that: 'Given that the project had never been fully scoped or designed prior to receiving the offer of funding from the Federal Government, [the State] Department of Transport, Energy and Infrastructure and Council proceeded to design a solution without any consideration of the funding available...The final cost of the project is expected to exceed the \$1.01 million grant.'

<sup>194</sup> These uncertainties were highlighted by the initial progress report provided to the department by Council on 25 July 2007 following payment of the approved funding to Council in June 2007, which advised that Council was unable to scope the project, subject to finalisation of design and agreement with the State Department of Transport, Energy and Infrastructure. In addition, the only figure identified within the budget reported by Council was the total amount of Strategic Regional Program funding—the estimated total project cost, all other funding contributions and the allocation of funding to project elements were all identified as 'To Be Advised' and all milestones other than Planning and Design were 'not known'.

Para/Potts Road intersection project for which \$250 000 in Australian Government funding was being sought (the letter did not specifically refer to the Strategic Regional Program).<sup>195</sup> The letter emphasised that Main North Road was a State Government road and that Council had an ongoing dispute with a developer as to who should pay for the proposed works. The department did not seek to establish the status of the dispute, or what sort of risk it posed to the project. Nor is there evidence of these matters having been considered by the then Minister prior to approving the funding on 10 May 2007. In this respect, in February 2009, Council advised ANAO that:

- an appeal it had made to the Supreme Court in relation to a ruling by the Environment, Resources and Development Court in favour of the developer had failed, placing the issue of a funding contribution by the property developer to the works to be undertaken further in doubt;
- design of the works had not yet been completed, because two further developments would influence the capacity of the road junction; and
- construction was targeted for commencement in 2010.<sup>196</sup>

**5.32** In light of this advice to ANAO, in May 2009 the department requested that Council prepare a PPR ‘with sufficient detailed information and realistic timeframes to assist in the appraisal of the project and in order to assess the viability of the project, from an Australian Government funding viewpoint’. However, in August 2009, Council advised that it would like to investigate using the funds for another, as yet unidentified, project.

**5.33** In January 2010, Council provided a PPR for a replacement project involving the construction of a roundabout at an existing cross road intersection between two other roads in the Town of Gawler, to be fully funded by the Strategic Regional Program funding of \$250 000 paid to Council in June 2007. In March 2010, the Minister approved the use of the Australian Government funding for the replacement project proposed by Council. In approving the replacement project, the Minister was advised that total project costs were estimated to be \$252 000, with the shortfall in funding to be met from interest earned to that time on the \$250 000 in grant funds advanced to

---

<sup>195</sup> The letter also only indicated a broad estimate of total project costs of between \$1 million and \$2 million, and did not identify the funding source for the remaining \$750 000 to \$1.75 million should the requested Australian Government funding contribution of \$250 000 be approved.

<sup>196</sup> The funding offered to funding recipients in the 2007 Budget round was conditional upon projects being completed by 30 June 2010.

Council in June 2007. The Minister was further advised that Council had earned interest totalling \$18 600 on the \$250 000 in grant funding and that the remaining interest was considered to belong to Council for use on other roadworks.

### *Other approaches for funding*

**5.34** There were other Councils that also sought access, through the department, to the additional Program funding in response to the Budget announcement. However, none were approved for funding. The approach taken in relation to those projects differed from that taken in relation to the projects shown in Table 5.2. For example, on 14 June 2007, the department advised the Offices of the two then portfolio Ministers that, at the end of May 2007, an application had been received from the City of Gosnells in Western Australia seeking \$2.734 million towards estimated project costs of \$4.1 million for the duplication of Garden Street in Canning Vale from Nicholson Road to Warton Road. The department advised that:

This project is very similar to the project submitted by the Council under the 2006 round for the duplication of Warton Road<sup>197</sup>, and is claimed to improve access to the proposed Canning Vale railway station and service the growing south eastern corridor and residential and freight movements through providing greater access to the Roe and Tonkin highways. This project could commence in August 2007 and be completed in December 2008.

**5.35** Also on 14 June 2007, the department advised the Ministers' Offices that the Shire of Murray in Western Australia had applied in late May 2007 for \$10 million towards a total estimated cost of \$15 million for the Southern Pinjarra Bypass project. The department advised that:

This project is an exact re-submission of the project they submitted against the 2006 project round, which was rated *Low*, and therefore would be amongst the list of *Low* projects.<sup>198</sup>

**5.36** By way of comparison, one of the approved projects shown in Table 5.2 also had a close relationship with an application rated *Low* in the 2006

---

<sup>197</sup> That project had been rated *Low* and was not approved for funding.

<sup>198</sup> The Shire of Murray's earlier application had been included in the list of unsuccessful 2006 applications provided to the Office of the then Minister for Transport and Regional Services on 24 April 2007, together with advice that it had been rated *Low*. The project was not approved for funding in the 2007 Budget round. In that context, the projects approved for funding in that round included 22 other projects that had been rated *Low* in 2006, and a further five projects whose overall rating had been reduced to *Low* due to the absence of written confirmation of co-funding.

application round. However, the department did not draw this to the attention of the relevant decision-makers or their Offices after being advised of the project by the then Minister (see Table 5.3).

**Table 5.3**

**Case study of a project applied for and approved in 2007 that had a close relationship with an application rated *Low* in the 2006 assessment**

A Small Project was submitted to the 2006 call for applications by Cardinia Shire Council for the upgrade and sealing of the gravel road portion of the Gembrook Tonimbuk Road between the Princes Highway and Tonimbuk. This road is located in two Federal electorates (La Trobe and McEwen, both then marginal Liberal-held electorates). The application did not identify the length of the road that was unsealed, or the extent to which the unsealed road would be sealed. However, the claimed benefits related to the road being fully sealed between the Princes Highway and Tonimbuk so as to provide a 'safe and more accessible link to the Bunyip State Forest'.<sup>1</sup> The department's 2006 assessment rated this project *Low* on the basis that:

This project barely meets the community and regional significance criterion. There is no evidence to support that the project will improve quality of service, bring benefits to tourism or generally support community development. Whilst the ACC has not provided comments, the lack of strong evidence to support the project produces a generally low rating.

The engineer's report suggests that the project has been fully scoped and is ready to commence. The project meets VicRoads' standards, has a realistic timeline and the costs estimated by the proponent are practical. The project generally meets the safety criterion. There is no indication of the specific safety benefits resulting from the project.

The project barely meets the community access/social significance criterion as there is no evidence that supports the claim relating to a safer and more accessible link to the Bunyip State Forest. There is no argument in the application in relation to improving access for the community to employment.

The project was nevertheless approved in the 2006 funding round by the then Minister for \$600 000 in Strategic Regional Program funding towards estimated project costs of \$900 000. The basis for the approval was not documented.

Subsequently, on 9 May 2007, Cardinia Shire Council wrote to the Member for La Trobe seeking \$2 million in assistance under the Strategic Regional Program for a project described as 'approximately 7km of upgrading and sealing of the Gembrook-Tonimbuk Road from East Beenak Road to the start of the State Park'. On 10 May 2007, the then Minister advised the department that funding of \$2 million was to be offered to Council for this project. The \$2 million represented the full estimated cost of the works meaning the mandatory co-funding contribution of a minimum of 30 per cent of the estimated project cost set out in the 2006 Program Guidelines for projects on a local road seeking more than \$1 million in Program funding was, in effect, waived.

In subsequently advising the then Minister that it was appropriate that he sign the Project Approval Instrument giving formal approval to the project for the purposes of the AusLink Act, the department made no reference to the earlier funding approved in relation to the Gembrook Tonimbuk Road or to its assessment of the merits of that project. This latter project is now described as Section 2 of the Gembrook Tonimbuk Road.

Note 1: This issue was not specifically addressed in the departmental assessment. By way of comparison, in its assessment of the City of Casey's application for the construction and sealing of 230 metres of Evans Road (within the then marginal ALP held seat of Holt), the department commented that: 'The applicant claims that the "ultimate construction of Evans Road will provide an alternative north-south link" and improve access for residents in Casey to employment in the north and west. This project only partially completes the construction of Evans Road and no other documents or evidence have been provided to address the issues of access to employment and community services'.

Source: ANAO analysis of departmental records.

## More recent departmental approaches

**5.37** By way of comparison to the approach taken for the 2007 Budget round, a more robust approach was taken to the departmental response to a September 2007 request from the Office of the then Minister for Local Government, Territories and Roads for an electronic copy of all applications received in the context of the 2006 funding round and of the one page summary of the assessment prepared in relation to each project.

**5.38** Specifically, a 26 September 2007 departmental Minute reminded the then Minister that he had agreed that only Large Projects rated *High* or *Medium* from the Initial Review stage would progress to the Detailed Assessment stage of the 2006 funding round, and that 57 projects had been rated *Low* at the Initial Review stage. The Minute also advised that 29 applications had been deemed ineligible. After also deducting the 86 projects funded in 2006 and 80 2006 round applications that were funded in 2007, the department advised that this left 243 of the 495 applications received in 2006. Details of those 243 projects only were provided to the then Minister.

**5.39** The department further advised the Minister that projects that did not satisfy the eligibility criteria or could not demonstrate ‘even on initial review’ that they would likely meet the assessment criteria would be unlikely to satisfy the test under FMA Regulation 9 of making efficient and effective use of public money and therefore had not been provided to the then Minister.

**5.40** A more robust approach than that taken for the 2007 Budget round of the Strategic Regional Program has also been taken more recently in respect to the Regional and Local Community Infrastructure Program—Strategic Projects. Specifically, as part of the \$42 billion Nation Building and Jobs Plan announced in early 2009, funding for that Program was increased from \$50 million to \$550 million and it was announced that this would enable more projects in the existing application process (which had closed on 23 December 2008) to receive funding.

**5.41** Consistent with the principles outlined at paragraph 5.6, on 13 February 2009, the Minister for Infrastructure, Transport, Regional Development and Local Government announced that Local Councils and Shires would be given the opportunity to submit new or revised applications, with a closing date of 6 March 2009. Councils were told why the application stage was being re-opened (‘to provide an opportunity to local councils who were unable to submit an application in the first round or were unable to submit their preferred application’) and that:

- Councils that did not apply under the original application process were eligible to apply for funding through the re-opened application process;
- all original applicants had three options: reconsider their application and submit an updated version; submit a new application for a new project; or retain their original application within the process; and
- disaster-affected councils may be treated differently in the application process. As it eventuated, disaster-affected Councils were given additional time to submit their application.<sup>199</sup>

**5.42** There would be benefits in these more robust approaches being adopted consistently by the department in the conduct of grant application processes.

## Recommendation No.5

**5.43** ANAO *recommends* that in circumstances where the funding made available to a grant program is increased substantially, the Department of Infrastructure, Transport, Regional Development and Local Government seek to promote value for money, probity and accountability by:

- where new applications are to be considered, advising relevant decision-makers on ways to provide equitable access to the additional funding through the open and transparent communication of the opportunity to access the funding; and
- where it is proposed to consider for funding applications previously received, ensuring that the Program Guidelines permit this to occur and, if they do, support appropriately informed decision-making by providing applicants with the opportunity to advise whether they wish to continue with the application and, if so, whether they wish to change or update any details.

**DITRD LG response:**

**5.44** Agree in principle and the department notes that this recommendation is not applicable to the current Off-Network Program.<sup>200</sup>

---

<sup>199</sup> Of the 479 applications received under the Regional and Local Community Infrastructure Program—Strategic Projects, 249 (52 per cent) were a new application (146 Councils) or a replacement application (103 Councils). The remaining 230 Council applications remained the one that had been submitted by the original closing date of 23 December 2008.

## 2007 Budget round funding decisions

### First approval tranche: 10 May 2007 (amended on 11 May 2007)

**5.45** On 7 May 2007, the Office of the then Minister for Transport and Regional Services provided the department with what was described as an ‘interim list’ of projects in order that the department could commence the necessary administrative processes to prepare funding offers. This list comprised 77 projects with a total cost to the Program of \$225.04 million (including two projects that had been the subject of unsolicited funding proposals that had been submitted outside of the 2006 application round).<sup>201</sup> The next day, the department provided the then Minister’s Office with short (‘two line’) project descriptions for each of these 77 projects.

**5.46** On 10 May 2007, the then Minister for Local Government, Territories and Roads provided a memorandum to the department advising that:

It has been determined that funding offers be made to the project proponents on the list **attached** to this memorandum. ...These offers are subject to the project proponents entering into a Funding Agreement for the project(s) listed

<sup>200</sup> DITRD LG currently administers a number of grant programs that are applications-based, and it is not uncommon for new applications-based grant programs to be established. Further, Part 6 of the land transport legislation does not prevent the current, or a future, government deciding to again operate the Off-Network Program as an applications-based program. Accordingly, this recommendation is of general relevance to the department, as is recognised by the department in its formal comments on the report (see paragraph 67).

<sup>201</sup> These two projects were:

- one of two unsolicited proposals advised to the then Minister for Transport and Regional Services’ Office on 24 April 2007 (see paragraph 5.16), being the Hillston-Eumungerie Regional Road Link project submitted in November 2006 by Lachlan Shire Council on behalf of partner-Councils (Narromine Shire Council, Parkes Shire Council, Carrathool Shire Council). The submission seeking Strategic Regional Program funding of \$6 666 667 toward total project costs of \$10 million had been generated from a joint meeting of the four Councils in August 2006 initiated by the then Member for Parkes). A substantially smaller project on the same road submitted to the 2006 round had been rated *Low* by the departmental assessment and was not approved for funding in 2006 (see further at footnotes 184 and 206 and paragraphs 5.63 to 5.66); and
- a proposal that was submitted to the then Minister for Transport and Regional Services in March 2007, being the Kirkwood Road Stage 2 project. Gladstone City Council and the Member for Hinkler had met with the then Minister to discuss the project in March 2007. On 30 March 2007, Council formally submitted its proposal seeking funding for the project to the then Minister, which was revised on April 2007. Council sought Australian Government funding of \$12.75 million to fully fund the remaining Stage 2 works. Unlike other projects approved in the 2007 Budget round, the letter of offer provided to Gladstone City Council did not state that the Australian Government funding was capped to the approved amount. In obtaining the then Minister for Local Government, Territories and Roads’ agreement to this approach on 15 May 2007, the department advised that the Office of the then Minister for Transport and Regional Services ‘has orally advised the department on Thursday 10 May 2007 that at this point, the money allocated to this project should not be regarded as capped’.

against their name by mid June 2007 to enable payment to be made by 28 June 2007.

**5.47** The list of 92 projects attached to the then Minister's memorandum had been primarily derived from the document sent by the department to the then Minister for Transport and Regional Services' Office on 24 April 2007 (see paragraph 5.16). It included each of the 77 projects included in the 'interim list' of 7 May 2007 (see paragraph 5.45), as well as a further 15 projects (including the 12 projects approved for funding as a result of the process involving letters from LGAs to Liberal Members (see paragraphs 5.25 to 5.32)). The list sorted projects by State/Territory and then as follows:

- Large Projects rated *High* in the 2006 assessment;
- Large Projects rated *Medium* in the 2006 assessment;
- Small Projects rated *High* in the 2006 assessment;
- Small Projects rated *Medium* in the 2006 assessment; and
- other projects. Although not identified as such in the then Minister's memorandum, the various 'other' approved projects comprised:
  - Large and Small Projects rated *Low* in the 2006 assessment process;
  - Large Projects rated *Low* in the Initial Review phase of the 2006 assessment process and which, therefore, did not progress to a Detailed Assessment against the published criteria;
  - projects submitted to the 2006 call for applications that were assessed as being ineligible under the Guidelines and which, therefore, had been excluded from the assessment process; and
  - projects that had not been submitted to the 2006 round and had not been subject to any departmental assessment or advice.

**5.48** In total, 29 of the approved projects had been rated *High* against the published criteria in the 2006 assessment process, with a further 27 having been rated *Medium*. Of the remaining 36 projects approved on 10 May 2007:

- 14 had been rated *Low* in the 2006 round;
- five had not been subject to a Detailed Assessment in 2006 (having been rated *Low* at the Initial Review stage for Large Project applications);



- three were applications to the 2006 funding round which had been assessed as ineligible under the published Guidelines; and
- 14 had not been assessed by the department. None of those projects had been the subject of an application to the 2006 round.

5.49 The basis on which the 92 approved projects had been selected for funding by the then Minister was not documented.

*Revised list of approved projects: 11 May 2007*

5.50 Although the Budget announcement was for an additional \$250 million in 2006-07, the then Minister's 10 May 2007 memorandum approved funding offers totalling \$270.82 million and stated that this approach had been taken:

on the basis of verbal advice from the Department that the number of actual acceptances may be as low as 70 per cent of the total number of offers made.

5.51 The memorandum stated that the then Deputy Prime Minister and Minister for Transport and Regional Services had written to the then Prime Minister:

to advise him of this situation and that, in the unlikely event that offers totalling more than \$250 million are accepted by project proponents, he would write again seeking the necessary additional funding.<sup>202</sup>

5.52 However, on 11 May 2007, a further memorandum was sent to the department by the then Minister for Local Government, Territories and Roads superseding and replacing the 10 May 2007 list with a list of 89 projects approving total Program funding of \$249.77 million. The 11 May 2007 memorandum recorded that:

It has been determined that funding offers be made to the project proponents on the list **attached** to this memorandum. ...These offers are subject to the project proponents entering into a Funding Agreement for the project(s) listed against their name by mid June 2007 to enable payment to be made by 28 June 2007.

---

<sup>202</sup> In response to a request from ANAO for copies of records of the departmental advice and Ministerial correspondence referred to in the memorandum, the department advised that its records do not include a copy of any letter relating to this matter from the then Deputy Prime Minister to the then Prime Minister (the department suggested that the letter may have originated in the then Deputy Prime Minister's Office) and that it was also unaware of any response having been received from the former Prime Minister. Nor could any record of the departmental advice regarding likely take-up rates for funding offers referred to in the memorandum be provided.

**5.53** The reduction in Program funding between the 10 May 2007 and 11 May 2007 memoranda had been achieved by withdrawing funding for three projects in New South Wales that had unsuccessfully applied for funding in the 2006 application round, despite each project having been rated *High* against the Program criteria. The specific projects removed were:

- the Council of the Municipality of Kiama's Princes Highway, Victoria Creek Deviation project which had sought \$10 million towards estimated project costs of \$20 million;
- Tumbarumba Shire Council's application for \$1.05 million towards the estimated \$2.1 million cost of a project titled 'MR85 Upgrade Works Stage 1 Formation widening and pavement improvements Murray River Crossing MR331 Holbrook Road Junction'; and
- Wollongong City Council's Port Kembla to Kembla Grange Freight Transport Link project which had sought \$10 million towards estimated project costs of \$34.45 million.

**5.54** In providing the amended list of approved projects on 11 May 2007, the then Minister did not identify the basis on which the projects to be excluded in order to fit within the available funding had been determined. In this respect, ANAO notes that the revised list of approved projects continued to include projects that had either been assessed as ineligible or rated *Low* in the 2006 assessment process, as well as projects that had not been the subject of a 2006 application and which had not been subject to any departmental assessment.

***Statutory obligations of an approver cannot be fulfilled by another person***

**5.55** On 14 May 2007, a departmental official signed FMA Regulation 9 proforma in relation to each of the projects approved in the then Minister's 11 May 2007 memoranda. The proforma stated that:

I have made reasonable enquiries [*sic*] and I am satisfied that the proposed expenditure of public money for the AusLink Strategic Regional Projects listed (identified) in the attachment:

- a. is in accordance with the policies of the Commonwealth; and
- b. will make efficient and effective use of the public money.

**5.56** This reflected the statutory obligations under FMA Regulation 9 with which an approver was required to comply at the time of approving a spending proposal (see paragraph 2.6). While this approach can give the impression of the official being the approver for the purposes of the

Regulations, this 'form' has no legal effect and does not alter the substance of the administrative arrangements. In this case, as outlined at paragraphs 2.25 to 2.27 and 5.19, the statutory function of approving a spending proposal had been undertaken earlier by the then Minister, as reflected in his formal advices to the department on 10 and 11 May 2007 of the projects that were to be given funding offers.<sup>203</sup> Further, it was difficult for the departmental official to purport to have made reasonable inquiries in relation to the projects already approved by the then Minister given the list of projects attached to the Minister's memoranda included:

- 12 projects for which the only documentation held was a brief letter from the Council to the local Federal Member (see Table 5.2)<sup>204</sup>;
- a project that did not exist (Beach Road: Dyson Road to South Road for the City of Onkaparinga with a funding amount of \$250 000)<sup>205</sup>;
- two other funding amount errors<sup>206</sup>; and
- projects that had not been scoped or designed (see paragraphs 5.29 to 5.32).

<sup>203</sup> If the Minister has, in fact, undertaken the role of approver such that officials do not have discretion to form an alternative view and decline to 'approve' the grant, the official is not able to fulfil the statutory obligations arising under the FMA Regulations on the Minister's behalf. Those obligations accrue personally to the person performing the role of approver in relation to a spending proposal.

<sup>204</sup> As noted at paragraph 5.27, there is no record of departmental advice being sought in relation to the 12 projects, or of the department being aware of the projects prior to being advised of the then Minister's approval of funding.

<sup>205</sup> Departmental records of 15 May 2007 state that the Minister's Office had advised the department that: 'the project listed [in the Minister's 10 and 11 May 2007 memoranda] as 'Beach Road, Dixon Road to South Road' should be shown as the Aldinga Beach Road project, and that the Australian Government contribution to this project is \$450 000, an increase from \$250 000 for the currently listed project.' A letter dated 10 May 2007 from the City of Onkaparinga to the then Member for Kingston had sought funding of \$450 000 for the Aldinga Beach Road project (see Table 5.2). The then Minister approved the replacement of the 'Beach Road, Dixon Road to South Road' project with the Aldinga Beach Road project, and the increase in approved funding, on 15 May 2007. The origin of the Beach Road project listed in the then Minister's approvals of 10 and 11 May 2007 was not able to be identified.

<sup>206</sup> Departmental records of 15 May 2007 state the then Minister's Office had advised the department that:

- the Hillston-Eumungerie Road project should have had an approved funding amount of \$6 666 667 rather than a rounded amount of \$6.7 million (this project is discussed further at footnotes 184 and 201 and paragraphs 5.63 to 5.66); and
- the Angle Vale Road & Heaslip Road Intersection project (for which the only information held was the letter seeking funding from Council to the then Member for Wakefield dated 9 May 2007 and faxed on 10 May 2007 (see Table 5.2), a copy of which had not been provided to the department until after the Minister's advice of the projects that were to be offered funding, was incorrectly listed as receiving \$1.1 million when the amount sought in the letter had been \$1.01 million. In addition, as noted at paragraphs 5.29 to 5.30, that project had not been fully scoped or costed at the time of the funding approval.

5.57 Similarly, the department's inquiries undertaken in the context of the 2006 application round in relation to a further 22 projects approved by the then Minister on 11 May 2007 had resulted in the projects being assessed as either ineligible or *Low* quality against the published criteria (including due to not meeting one or more criteria or representing a high risk). There is no evidence of the department having undertaken any further inquiries in relation to any of those projects prior to the Minister's approval of funding.<sup>207</sup>

5.58 Therefore, it will be important that future program documentation prepared by the department is designed to properly reflect the point at which there is substantive approval of grants and, consequently, a need to comply with the legislative and policy requirements that regulate such decisions.

#### *Funding offers and 100 per cent up-front payments*

5.59 Following the correction of errors in the list attached to the then Minister's 11 May 2007 memorandum, there were 89 projects approved for total Program funding of \$249.85 million. Letters<sup>208</sup> signed by the then Minister and sent on 16 May 2007 to 69 Councils and the South Australian Government (in respect to three projects in unincorporated areas of that State) advised that:

This funding offer is conditional upon the Council entering into a funding agreement with the Department of Transport and Regional Services (the Department). The funding agreement between the Council and the Department will consist of this letter including the Execution Clause on page 3, signed by both parties, Schedules 1 and 2 and the Annexures of Schedule 1.

Schedule 2 sets out the details of the scope of the project.

If the Council accepts this offer of funding, a person with the appropriate authority will need to sign the Execution Clause (on page 3 of this letter), as

---

<sup>207</sup> For example, Redland City Council had applied to the 2006 funding round for \$4.34 million towards estimated total project costs of \$6.2 million to widen Quarry/Rickertt Road (located in the (at that time) fairly safe Liberal Seat of Bowman) from two lanes to four lanes so as to manage future traffic growth. In accordance with the assessment procedures agreed by the then Minister, there was no Detailed Assessment of the project against the published Guidelines because the department had rated the project *Low* at the Initial Review stage. This rating was determined on the basis that: 'The project has generally not addressed any of the criteria strongly.' The project was, therefore, not considered further for funding in the 2006 round. However, the then Minister approved the project as part of the 2007 Budget round.

<sup>208</sup> There were five versions of the letter: one for Council's with a single project approved in 2007 for which application had been made in 2006; one for Council's with multiple projects approved in 2007 for which applications had been made in 2006; one for Council's with a single project approved in 2007 in respect of which an application had not been made in 2006; one for Council's with multiple projects approved in 2007 for which applications had not been made in 2006; and one for Council's that had a combination of a project(s) for which it had applied in 2006 as well as a project(s) for which it had not applied in 2006.

well as initial each and every page of both the original and the copy of this letter, Schedules 1 and 2 and the Annexures to Schedule 1 and return them to the Department by no later than **15 June 2007. This offer will lapse if both signed and initialled copies of the funding agreement are not received by the Department by 15 June 2007.**<sup>209</sup> [*Emphasis as per original*]

**5.60** The then Minister's letter of offer further advised Councils that the approved projects would be required to be completed by 30 June 2010.

**5.61** As discussed at paragraphs 5.20 to 5.23, reflecting the absence of due diligence inquiries to inform the funding decisions, there were a number of projects approved in the 2007 Budget round that had already commenced or where the project scope, timeframe and/or estimated cost had changed considerably since the original application had been made to the Program in May 2006. Some Councils did not draw this to the department's attention before accepting the funding offer and receiving an advance payment of the Strategic Regional Program funds. In some instances, the Funding Agreement was later varied to reflect the actual situation.

*Project parameters altered to allow for acceptance of funding offers*

**5.62** Other Councils raised changes in their project, other issues associated with funding the currently estimated total project costs and/or their capacity to complete the project by the required date of 30 June 2010 as possible impediments to accepting the funding offer. In these circumstances, the approach generally taken by the department was to encourage the Council to change the project parameters in order that the offer could be accepted. However, the viability and value for money of the amended proposal was not appropriately assessed prior to it being approved by the then Minister and the funds paid in full to the recipient Council by 30 June 2007. An example is set out in Table 5.4.

---

<sup>209</sup> As noted, the requirement for offers to be accepted by 15 June 2007 (one month after being made) was driven by a desire to pay all approved funding to the funding recipients by 30 June 2007, due to the additional \$250 million in administered appropriation for the Strategic Regional Program having been allocated in the 2007 Budget to the 2006-07 financial year (see further at paragraphs 5.89 to 5.100).

**Table 5.4**

**Case study of a project for which the project parameters were amended to enable the funding offer to be accepted by 30 June 2007**

Whittlesea City Council had submitted an application in 2006 seeking \$980 000 toward total project costs of \$7.96 million for the E6 Roadway Findon Road to Bridge Inn Road project involving:

The construction of a single two lane two way carriageway from Bridge Inn Road in Wollert southwards to Harvest Home Road in Epping North, then a duplicated four lane road from Harvest Home Road to Findon Road in Epping. The distance of each section is 3.4km and 1.6km respectively. At some time in the future, the State Government will build the remaining 5.7km length of duplicated roadway from Findon Road to the Metropolitan Ring Road.

The application proposed that the remaining \$6.98 million was to come from developer contributions (which were not confirmed). This project had been ranked sixth of eight projects by a working group of five Councils that had been organised in the context of the 2006 round to prioritise candidate projects in the metropolitan North Victorian region that matched the Program criteria. The eight projects identified by the working group included a further two projects in the Whittlesea municipality, which had been rated as 1<sup>st</sup> and 4<sup>th</sup> priorities respectively, and for which Council had also submitted applications to the 2006 round. None of the applications were approved in the 2006 funding round.

After being offered funding for the E6 project in May 2007, Council sought advice as to why that project had been selected over the two higher priority projects and was advised that this was a decision of the then Government. After being notified of the funding offer, Council advised that developer funds actually held were in the order of \$250 000 and that it could be up to ten years before the full \$6.98 million necessary to complete the works would be raised. Later in May 2007, the department advised Council that the then Minister would accept a reduction in the scope of the project. In early June 2007, Council advised that it was not in a position to accept the offer as it did not consider it would be able to complete the project in the three year timeframe (with 2007 Budget round projects required to be completed by 30 June 2010) and that it could take up to five years to complete, particularly due to the 'significant land acquisitions' required across 'multiple' holdings. On 14 June 2007, the then Minister withdrew the original offer and made a new offer to Council of the same funding amount of \$980 000 for a reduced scope of works. The revised funding offer stipulated that:

The project must be completed by 30 June 2012. Council is required to expend all Australian Government funds for the project over the first three years of the project by 30 June 2010 with Council funds to be used in the final two years to complete the project by 30 June 2012.

An estimate of total project costs for the reduced scope of works was not obtained prior to the revised funding offer being made. In accepting the offer, Council advised that the total cost estimate was now \$12 million and confirmed that: 'It is possible...that the Council may not succeed in acquiring strategic parcels of land needed to deliver the roadway.' Council was invited by the department to request prepayment of the full \$980 000 prior to 30 June 2007, which it did.

In late July 2007, Council advised the department that the total project cost had increased to \$17.226 million. In May 2008, Council advised that the project was under review due to cost increases; problems associated with flora and fauna studies and land acquisition; and the relative priority of the project to Council. In September 2008, a submission was made to the Minister for Infrastructure, Transport, Regional Development and Local Government seeking his agreement to a significant reduction in the project scope. Of particular note was that the 3.4km single carriageway section was no longer proposed to be undertaken; and the 1.6km dual carriageway section was to be reduced to a single two-lane carriageway (with an estimated cost of \$6 million). The scope reduction was approved by the Minister on 2 February 2009. However, as at August 2009, none of the Australian Government funding paid to Council in June 2007 had been spent and substantive work on the project had not begun.

Source: ANAO analysis of departmental records.

**5.63** Another example related to the Hillston-Eumungerie Regional Road Link project, for which an unsolicited proposal seeking funding of \$6 666 667 toward total project costs of \$10 million had been submitted in November 2006 by Lachlan Shire Council on behalf of partner-Councils, Narromine Shire Council, Parkes Shire Council and Carrathool Shire Council.<sup>210</sup> The works proposed were to seal the remaining 88 kilometres of the Regional Road link between Hillston and Eumungerie and replace a bridge on the route. The project benefits claimed in the submission related to the completion of a fully sealed route.

**5.64** As the submission was received some seven months after the closing date for applications to the 2006 round, its merits, viability and value for money were not assessed by the department. However, it was approved by the then Minister in the 2007 Budget round. Following receipt of the offer of capped funding of \$6 666 667, the Councils sought the then Minister's agreement to a reduction in project scope to enable it to accept the offer by the 15 June 2007 deadline, with Council advising that, at the time the submission was developed:

...we were advised that a maximum grant of \$10 Million was available for submissions and that has led to the Council applying for grant funding for \$10 million.<sup>211</sup> In reality, it was always understood from a staff perspective that to complete the total project as identified within the current approved purpose would amount to approximately \$20.36 Million, but as there was a limit for projects of \$10 Million, this was the amount that has been applied for and subsequently received.

It appears that at the time of lodging our joint funding submission staff from the four councils may have lost sight of the fact that we were committing ourselves to a task that we could never achieve for the amount of grant funding requested...it appears that the councils in hindsight failed to highlight

---

<sup>210</sup> See footnotes 184, 201 and 206.

<sup>211</sup> Contrary to Council's advice to the then Minister, the November 2006 submission had sought Strategic Regional Program funding of \$6 666 667 toward a total project cost of \$10 million. The four Councils were to make funding contributions proportional to the extent of works to be undertaken in their local government area. The Program Guidelines published for the 2006 funding round that closed to applications on 1 May 2006 (some seven months prior to the joint submission for the Hillston-Eumungerie Regional Road Link project being submitted) stipulated that the maximum grant available from the Strategic Regional Program was \$10 million. However, no limit was placed upon the total cost of a project for which the grant could be sought. The Guidelines had also required a minimum of 30 per cent co-funding for a project seeking more than \$1 million in Program funding.

that the funds of \$10 million would not complete the project, but a part of the project...

At the time of lodgement of the Council's submission I have been advised that to seal a kilometre of road would cost approximately \$220 000, and that the costs of construction would vary between the Councils due to local circumstances. Having regard to this calculation, and assuming we exclude an amount of \$1 million to replace the bridge there would be a balance of \$9 million remaining to go towards funding the sealing of the projects in question. Based purely on an arithmetic equation this would suggest that we could seal approximately 41 kilometres of road length.

**5.65** After taking account of works already undertaken since the proposal was submitted in November 2006, the reduced scope proposed by Council would leave 33 kilometres of the road network still unsealed. On 31 May 2007, the department sought the Minister's decision on the course of action to be implemented, but did not provide any analysis in relation to the extent to which the reduced scope would provide value for money in achieving Program objectives. Nor did the department make any recommendation in relation to the Councils' request. Instead, it advised the then Minister of two options for his decision, being:

- withdrawal of the funding offer; or
- agreeing to the reduced project scope.

**5.66** On 31 May 2007, the then Minister agreed to the reduced project scope. A revised funding offer provided on 1 June 2007 was accepted by Council and the full funding of \$6 666 667 was advanced to Council in June 2007.

## **Second approval tranche: 21 June 2007**

**5.67** With one exception, each recipient of a 16 May 2007 letter of offer accepted the funding. The exception related to the City of Stirling in Western Australia. A 7 May 2007 letter from the City's Mayor to the Member for Stirling had sought an Australian Government contribution towards the cost of the construction of an overpass at the intersection of the Reid Highway and Mirrabooka Avenue (see Table 5.2) The letter stated that:

As Reid Highway forms part of the State Government network, and is amongst the worst traffic blackspots in Western Australia, I envisage that they will willingly join with the Commonwealth to fund this project.

It is my understanding that based on the work the Council has done on a similar overpass at the Reid Highway and Alexander Drive interchange, the



project cost would be around \$24 million and we ask the Commonwealth Government to make a contribution of around \$10 million to the total cost.

**5.68** In this respect, Council had submitted two unsuccessful applications as part of the 2006 round, one of which was for \$10 million towards the estimated \$24 million cost of constructing an interchange at the intersection of the Reid Highway and Alexander Drive. Both applications were rated *Low* by the department at the Initial Review stage and neither was approved for funding in 2006. The Mayor's 7 May 2007 letter did not make any other reference to the project that been the subject of the unsuccessful application to the 2006 round. Funding for the project proposed in the 7 May 2007 letter was approved by the then Minister on 10 May 2007.

**5.69** On 21 May 2007, the City's engineering department advised the department that the funding offer had 'created some confusion'. In particular:

At the time of making our application [*for funding of the Alexander Drive intersection project to the 2006 round*] the Reid Highway intersections with Alexander Drive and Mirrabooka Avenue were both reviewed. The Alexander Drive intersection having a considerably higher crash ranking than the Mirrabooka Avenue intersection. A check with Main Roads WA for current data shows this situation remains unchanged. The Alexander Drive intersection is in greater need to construct a bridge overpass than the Mirrabooka Avenue intersection.

Your advice on this matter is therefore urgently requested before the City and Main Roads can evaluate the funding offer. Would you please advise why the intersection with a higher crash ranking (Alexander Drive) has not been offered the funding to construct an overpass? Has an error been made by DOTARS identifying which intersection is in need of the funding?

**5.70** The department's 22 May 2007 response advised that the funding offer had been based on the 7 May 2007 letter from the Office of the Mayor to the local Federal Member.

**5.71** Obtaining State Government funding for the project also caused difficulties for the City, given the State had agreed to contribute funding to the assessed higher priority Alexander Drive intersection project that had been the subject of the unsuccessful 2006 funding application. In this respect, on 14 June 2007, the City of Stirling wrote to the then Minister advising that:

Since the receipt of this Federal Government offer, the City of Stirling has been liaising closely with the Western Australian State Government, seeking their approval to reallocate their funding originally designated for the overpass at

Alexander Drive and Reid Highway, to the overpass at Reid Highway and Mirrabooka Drive.

On Wednesday 13 June 2007, the City of Stirling was advised by the responsible State Minister, that the reallocation of this funding would require State Government approval. Unfortunately, the next State Cabinet meeting at which this matter could be considered is scheduled for Monday 18 June 2007, three days after the acceptance deadline.

The City of Stirling does not wish to see this funding withdrawn, and therefore respectfully requests that [*the then Minister for Local Government, Territories and Roads*] consider granting an extension of time to allow for the State Government to consider this matter, and advise the City of Stirling accordingly of its deliberations.

**5.72** The then Minister agreed to the request for an extension of time. He asked the department to inform the City that the offer would lapse if a PDF copy of two signed and initialled funding agreements and bank account details were not emailed to the department by 5:00 pm on Tuesday 19 June 2007, with hard copies to be sent in the overnight mail on 19 June 2007. However, at 6:09 pm on 19 June 2007 the City emailed the department as follows:

This email confirms our telephone discussion of this afternoon when I advised you that unfortunately our State Government has yet to make a commitment to the funding of the Mirrabooka Ave / Reid Hwy overpass project. They did however, indicate that a decision would be handed down on Thursday morning 21 June 2007, regarding their commitment to this project, which we acknowledge is past your deadline of 5.00pm today, Tuesday 19 June 2007.

Despite the fact that the City of Stirling is extremely disappointed that the State Government could not make a decision within the agreed timeframe, we can assure you that all future funding applications made on behalf of the City of Stirling will be forwarded within the allocated timeframe and with the support of the State Government.

**5.73** The following day, the then Minister's Office asked the department to confirm that there remained \$10 413 540 in uncommitted Program funding that could be allocated to other projects.<sup>212</sup>

---

<sup>212</sup> These funds related to the \$10 million offered to the Reid Highway/Mirrabooka Avenue project; \$154 297 of the 2007 Budget funding that had not been included in the May 2007 funding offers; \$134 243 in funds available for the 2006 application round that had not been allocated in that round; and a 2004 election commitment of \$125 000 to a project that had not proceeded (see further on this last element at paragraph 6.17).

### *Further funding offers*

**5.74** Also on 20 June 2007, the then Minister's Office asked to be provided with the one-page summary assessments and applications for three projects that had been unsuccessful in the 2006 round, being:

- one of the three projects that had originally been included for funding on 10 May 2007, but removed from the 11 May 2007 revised list of approved projects due to insufficient available Program funding (see paragraph 5.53)<sup>213</sup>;
- the District Council of Franklin Harbour's Spencer Gulf Alternative Highway project (for which Council had applied in 2006 for \$900 000 towards estimated projects costs of \$1.935 million, and which had been rated *Low* by the department in the 2006 assessment process<sup>214</sup>); and
- Tamworth Regional Council's 2006 application for \$4.07 million towards the estimated \$8.498 million cost of the Nundle to Quirindi Log Haulage Route upgrade. This project had been rated *High* by the department, but not approved for funding by the then Minister in the 2006 round.

**5.75** On 21 June 2007, the then Minister signed a memorandum to the department advising as follows:

Following the outcome of an initial round of offers (Subject of Memorandum 11 May 2007), a residual amount currently remains unallocated.

It has therefore been determined that further funding offers will be made to the project proponents as indicated on Attachment A to this memorandum.

The attached list details 13 projects seeking funding totalling \$10 412 101 from the Australian Government.

Payments are to be made by 28 June 2007 subject to the project proponents entering into a funding agreement for the project(s) listed against their name.

**5.76** The 13 approved projects included two of the three projects in respect of which the then Minister's Office had requested information on 20 June 2007

---

<sup>213</sup> The requested project was Tumbarumba Shire Council's application for \$1.05 million.

<sup>214</sup> This was one of the projects referred to at paragraphs 3.45 to 3.48 that had their overall assessment rating reduced from *High* to *Low* due to the absence of written confirmation of stakeholder funding contributions. Under the Program Guidelines, the project should have been assessed as ineligible.

(see paragraph 5.74<sup>215</sup>) and a further 11 projects for Councils in six States. Each of the 13 projects had been the subject of an application to the 2006 round. Of these, one had been rated *High* against the published Program criteria, with the remaining 12 projects having been rated *Low*.

5.77 Letters of offer from the then Minister sent to the 13 Councils on 21 June 2007 required acceptance of the offer to be received by the department no later than midday Eastern Standard Time on 27 June 2007. The terms of the funding offer were similar to those made on 16 May 2007. Similar to the offers made on 16 May 2007, there were instances of the project having changed significantly since the original application for funding had been made. Where this was drawn to the department's attention prior to the offer being accepted, the approach taken was, again, to change the project in order that the offer could be accepted and funds paid before 30 June 2007.<sup>216</sup>

#### *Assessment status of funding offers made in the 2007 Budget round*

5.78 Overall, of the 102 projects given Ministerial approval for funding through the 2007 Budget round, just over half (54 projects, 53 per cent of approved projects) had been the subject of unsuccessful applications to the 2006 competitive round and had been rated as either *High* or *Medium* quality against the published assessment criteria.

5.79 The remaining 48 projects (47 per cent of projects approved in the 2007 Budget round) had either:

- not been an application to the 2006 round and had not been assessed by the department (14 projects, including the funding offer to City of Stirling that was unable to be accepted);

---

<sup>215</sup> The Tumbarumba Shire Council project was not included on the list attached to the then Minister's 21 June 2007 memorandum.

<sup>216</sup> For example, one of the 2006 applications funded in the second tranche of the 2007 Budget round involved a project for Ballina Shire Council to replace the Eltham Road Bridge. Council had submitted an application for the Program to fully fund the replacement of the bridge at an estimated cost of \$183 000. In early June 2006 (soon after lodging the application), Council had advised the department that there was an error in the application such that the estimated cost of replacing the bridge was actually \$1 830 000. However, Council was advised that the error could not be corrected after the closing date for applications of 1 May 2006. The June 2006 advice from Council, and the fact that Council was seeking full funding for a bridge replacement that could not be achieved within the amount of funding applied for, was not reflected in the information on this project provided to the then Ministers and their Offices as part of the 2007 Budget round. Upon receiving the \$183 000 funding offer in June 2007, Council again advised the department that the construction costs in the application were missing a zero, such that total costs were actually \$1 830 000. To enable Council to accept the offer, the scope of the project was adjusted to involve rehabilitating the existing timber bridge rather than replacing it with a new concrete bridge (at an estimated cost of \$300 000). This work was undertaken in October 2007.

- had been assessed as ineligible in the 2006 round and, therefore, not assessed or rated against the Guidelines (three projects); or
- had been rated *Low* against the published criteria in the 2006 round (31 projects, including five Large Projects that did not proceed past the Initial Review assessment stage and did not receive a final rating).

## Distribution of funding

**5.80** As noted at paragraphs 5.25 to 5.32, 12 of the projects approved for funding in the first tranche of the 2007 Budget round were the result of five Members of Parliament from marginal Liberal Party-held electorates being provided with an opportunity to obtain letters seeking Program funding from one or more LGAs in their electorate (see Table 5.2—as noted at paragraphs 5.67 to 5.73, one of those funding offers was unable to be accepted by the due date and was subsequently withdrawn).

**5.81** The two unsolicited proposals that were approved for funding in the 2007 Budget round involved a project in the then-National Party held seat of Hinkler (however, following a 2006 redistribution, it would be located in the new seat of Flynn following the 2007 election) and a project involving works that crossed the Federal electorates of Calare and Parkes (Parkes was and remains held by the National Party but, following a redistribution, the sitting Member was to contest the then Independent-held seat of Calare at the 2007 Federal election).

**5.82** The remaining projects approved in the 2007 Budget round related to unapproved applications received in the 2006 application round. The 409 applications not approved in the 2006 round had involved projects in or affecting 97 Federal electorates. Of these 409 applications, 88 were approved for funding in May or June 2007 in respect to 44 Federal electorates.

**5.83** The majority (61 per cent) of projects approved for funding in May and June 2007 that had unsuccessfully applied in 2006 had been rated either *High* or *Medium* by the department against the published Program criteria in the 2006 assessment process. However, once those projects had been approved in the 2007 Budget round, there remained a further 17 projects that had been rated *High* or *Medium* in the 2006 application round that remained unapproved

for funding.<sup>217</sup> By way of contrast, the projects approved for funding in the 2007 Budget round by the then Minister included:

- three applications to the 2006 round that had been assessed by the department as ineligible and which, therefore, did not proceed to the assessment phase. Each of those projects was located in a Coalition-held electorate<sup>218</sup>;
- five Large Project applications to the 2006 funding round (each seeking more than \$1 million in Program funding) that had not been subject to a Detailed Assessment against the published Program criteria due to being rated *Low* at the Initial Review stage. These projects were approved in the 2007 Budget round notwithstanding that the then Minister had agreed in 2006 with a departmental proposal that only Large Projects rated *High* or *Medium* after the Initial Review stage would progress to a Detailed Assessment stage and be considered for funding. Each of these five projects related to a Coalition-held electorate<sup>219</sup>; and
- 26 applications to the 2006 funding round that had been rated *Low* by the department against the published criteria. Of these, 21 projects (81 per cent) related to a Coalition-held electorate.<sup>220</sup>

## Project results

**5.84** Proponents that had projects approved for funding as part of the 2007 Budget round were offered more attractive funding terms and conditions than

---

<sup>217</sup> Of these 17 projects: seven were located in a Coalition-held electorate; six projects submitted by one Council were on a road that crossed two electorates, one held by the Coalition and the other held by an Independent Member; two were located in electorates held by Independent Members; and two were located in ALP-held electorates.

<sup>218</sup> There were a further 27 applications to the 2006 funding round that had been assessed as ineligible and which were not approved for funding in either the 2006 round or 2007 Budget round. Of these, 19 related to one or more electorates held by the Coalition and eight related to electorates held by the ALP.

<sup>219</sup> In two instances, the project related to two electorates: in one instance, the second electorate was held by the ALP; in the other instance, the second electorate was held by an Independent Member. There were a further 50 Large Projects that did not proceed to a Detailed Assessment in the 2006 assessment process and which were not approved for funding in either the 2006 round or 2007 Budget round. Of these 50 projects: 32 were located in one or more electorates held by the Coalition; ten were located in electorates held by the ALP; five were located in two electorates, one of which was held by the Coalition and the other by the ALP; and three were located in an electorate held by an Independent Member.

<sup>220</sup> In three instances, the project related to two electorates, one of which was held by the Coalition and the other was held by the ALP.

those who had successfully applied for funding in 2006. In particular, they were provided with their funds in advance in full and had more time to deliver the projects.<sup>221</sup>

## Scope changes and cost increases

**5.85** At the time the May and June 2007 funding decisions were made, more than thirteen months had passed since applications had been submitted in the 2006 round. It had also been between seven and nine months since the department had finalised its assessment of 2006 applications. However, as noted, there were no steps taken by the department prior to funding being approved and paid to seek and analyse updated information from proponents, including as to whether:

- the project remained undelivered and Council still wished to apply for funding; or
- there were any changes to the project scope, timeframe or estimated cost.

**5.86** Rather than obtaining up-to-date information to inform funding decisions, the approach taken in May and June 2007 was to advise each Council that:

The Australian Government contribution to your project is capped and the Council is required to complete the project as outlined in the application.

**5.87** However, the experience with the Strategic Regional Program demonstrates that capping of the Australian Government contribution is not an effective risk management strategy in circumstances where funding offers are not based on up-to-date information concerning the project and/or funding is paid in full prior to the precise project delivery parameters having been clearly established.

**5.88** For example, for 68 of the 102 projects that proceeded to have a Funding Agreement signed (67 per cent of projects), the funding recipient has

---

<sup>221</sup> Projects approved in the 2007 Budget round were required to be completed within three years (by June 2010) rather than by the first quarter of 2009, as had been the case for projects approved in 2006. Accordingly, compared to the 37 months available to complete projects approved in May 2007, projects approved on 19 December 2006 (the last tranche of projects approved in the 2006 round) had 27 months between announcement and the end of the first quarter of 2009 (and even less time between the signing of the Funding Agreement—given the delays that occurred in that process, as noted at paragraph 2.26—and the end of the first quarter of 2009).

reported to the department that the project has (for completed projects) or is expected to (for projects in progress) cost more than the project estimate relied upon at the time funding was approved. Increased costs have either resulted in additional partner funding being sourced (securing additional funding delayed the commencement of some projects) or, where additional funding was unavailable, the capping of the Australian Government contribution has encouraged reductions in the scope of works.

## Financial arrangements

**5.89** As noted, Councils were provided with between six and 31 calendar days to consider whether to accept the 2007 funding offer, on the terms and conditions proposed by the Australian Government. Most Councils had no prior notice that they may receive a funding offer.<sup>222</sup> In respect to the reason for the tight timeframe to decide whether to accept the funding offer, Councils were advised that:

The need to have funds spent by the end of the 2006-07 financial year brings about the limited time for a response.

**5.90** As is advised in the ANAO Administration of Grants Better Practice Guide, in selecting funding strategies for a grant program, care should be taken to consider sound cash management principles. 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.

---

<sup>222</sup> In order to identify as soon as possible any Councils that may not accept the offer, the department had developed procedures to expedite the delivery of the funding offer letters and follow-up the letters with telephone calls and emails.



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.<sup>223</sup>

**5.91** In addition, 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.

...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.<sup>224</sup>

### *Payments in advance of project needs*

**5.92** Nevertheless, the payment of the full amount of each grant by 30 June 2007 was a key element of the 2007 Budget round for the Strategic Regional Program. There was no documented risk assessment and cost benefit analysis that considered whether designing the round for payment in advance of need was warranted or not. This was compounded by the department's administration of the Funding Agreement progress reporting and monitoring arrangements not being intensified to reflect the heightened risks from advance payment.

**5.93** The more advantageous (to Councils) financial arrangements for 2007 Budget round projects compared to those projects approved in 2006 are well demonstrated by the two Cardinia Shire Council projects on the

<sup>223</sup> ANAO Better Practice Guide-Administration of Grants, May 2002, op. cit., pp. 31–32.

<sup>224</sup> ANAO Audit Report No. 37 1999–2000, *Defence Estate Project Delivery*, Canberra, 4 April 2000, pp. 50 and 52.

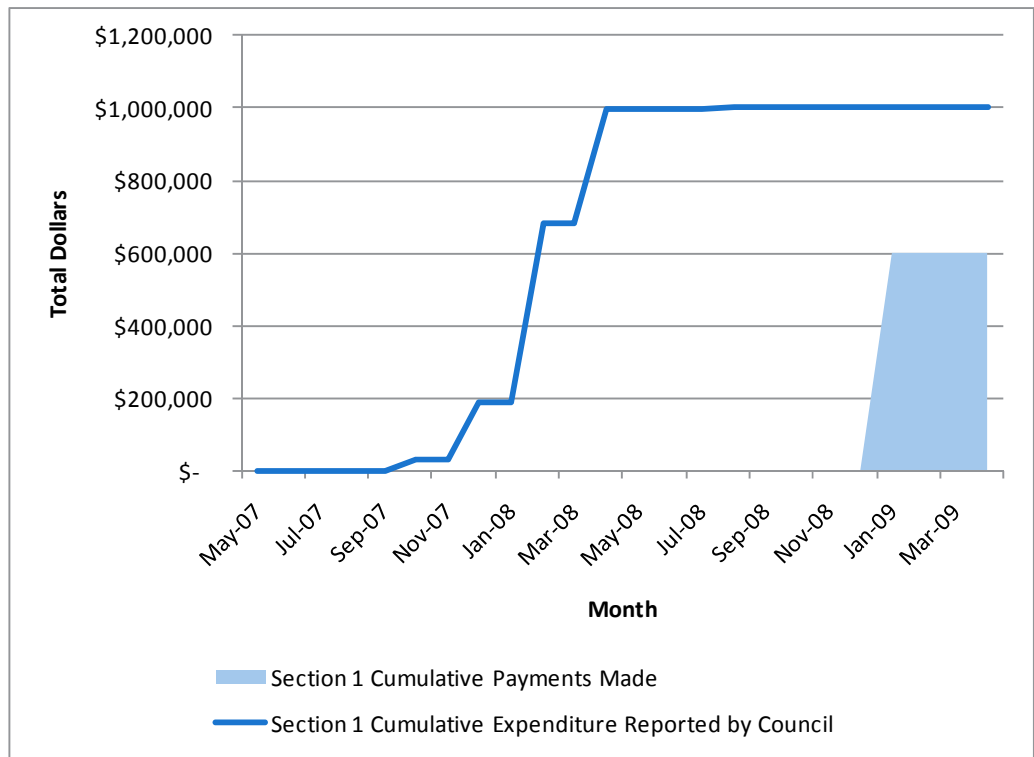
Gembrook-Tonimbuk Road, one of which was approved for funding in December 2006 and the other in May 2007 (discussed further at Table 5.3). The scope for the first section of works (applied for in the 2006 application round and approved for funding in December 2006) was defined in the Funding Agreement executed on 30 May 2007 as involving:

the reconstruction and sealing of approximately 4km of the gravel portion of the connection between the end of the existing seal, north of Ellis Road and Tonimbuk. The road will be sealed to a varying width of up to 6.2 metres on its existing formation.

**5.94** The Funding Agreement milestones included the completion of final design by August 2007 and practical completion of works by 28 February 2008. Council has reported to the department that work commenced in January 2008, with construction being completed by August 2008. As illustrated by Figure 5.1, Council was paid in arrears for the Australian Government contribution to the project.

**Figure 5.1**

**Gembrook—Tonimbuk Road Section 1, Cardinia Shire Council, Victoria**



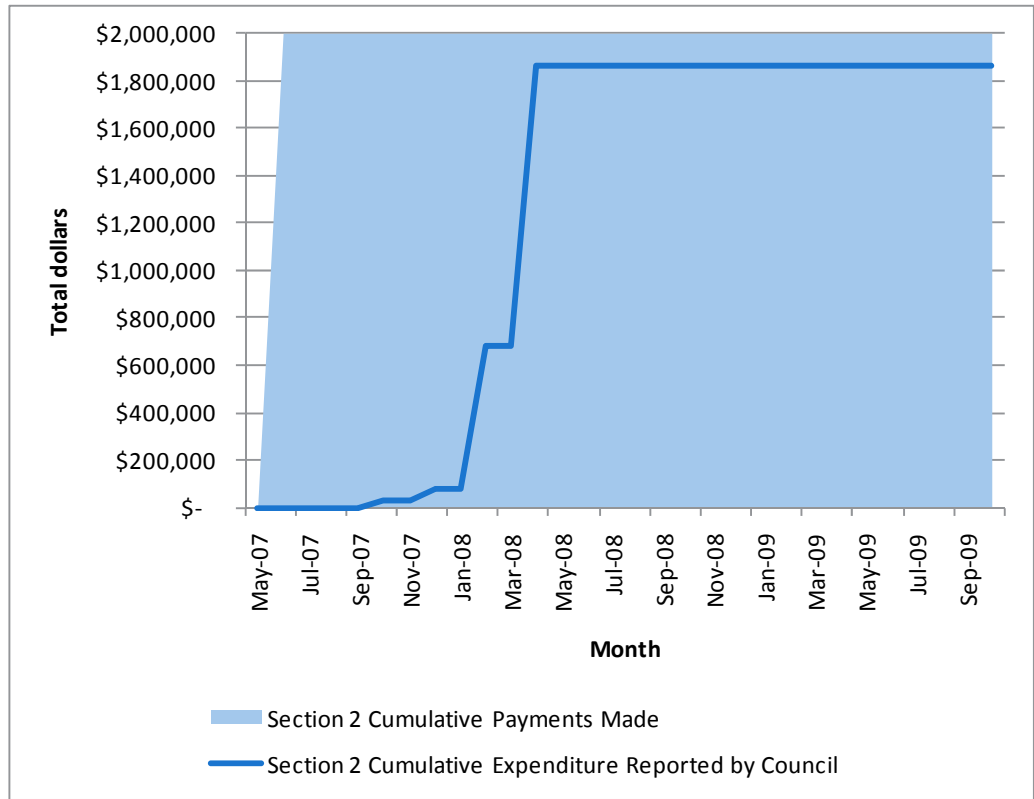
Source: ANAO analysis of departmental data.

**5.95** A separate Funding Agreement for the second section of works was executed on 26 June 2007, following the then Minister's approval of funding for an additional project on the road based on a letter submitted by the relevant Council to the local Federal Member on 9 May 2007 (see Table 5.2). Details supporting the project (such as the project scope, budget items and milestones) for annexure to the Funding Agreement were finalised on 25 July 2007, after the full Program funding of \$2 million had been paid to Council on 27 June 2007. By way of comparison, as illustrated by Figure 5.1, the \$600 000 in Program funding approved for Section 1 was not paid to Council until 6 January 2009.

**5.96** The Section 2 Funding Agreement annexures provided by Council to the department showed that planning and design of Section 2 was planned to be undertaken between September and October 2007 (at an estimated cost of \$50 000) and that preconstruction and construction works were not expected to be undertaken until between December 2007 and May 2008. Accordingly, most of the project expenditure was not forecast to occur until between January 2008 and June 2008 (\$1.8 million), with the remaining expenditure of \$150 000 to occur in January/February 2009 when the final spray seal was planned. Council has reported to the department that construction work was completed in April 2008, ahead of schedule, but that unfavourable weather conditions had delayed the final seal until November/December 2009, with the remaining Program funds to be spent on the final seal. Figure 5.2 illustrates the extent to which Strategic Regional Program funds for Section 2 were paid in advance of Council's cashflow needs.

**Figure 5.2**

**Gembrook—Tonimbuk Road Section 2, Cardinia Shire Council, Victoria**



Source: ANAO analysis of departmental data.

**5.97** Another example involved Wyong Shire Council’s Watanobbi to Warnervale Link Road project. That project had been the subject of a \$2.5 million 2004 election commitment funded through the Strategic Regional Program (see further at paragraphs 6.48 to 6.54). Due to uncertainties about the scope, timeframe and cost of the project, a Funding Agreement for the 2004 election commitment was not signed until 23 May 2007, one week after the project was offered a further \$3 million in Strategic Regional Program funding as part of the 2007 Budget round. The \$3 million in funding approved by the then Minister in May 2007 was based on Council’s previously unsuccessful application to the 2006 round for additional funding for this project.<sup>225</sup>

<sup>225</sup> That application had been rated *Low* against the Program Guidelines by the department at the Initial Review stage. As a result, in accordance with the procedures agreed by the then Minister, the project did not progress to the Detailed Assessment stage and was not considered for funding in the 2006 round.

**5.98** After receiving the funding offer, Council advised the department that the design parameters for the project had changed and the total project cost was now \$25.5 million, rather than the \$12 million identified in its 2006 application. The then Minister agreed to a departmental recommendation that the project description and estimated cost be changed.

**5.99** In order to make the \$3 million payment from the Budget round funding to Council by 30 June 2007, the department drafted the Funding Agreement in a way that did not recognise the earlier funding approved for the same project (which had yet to be drawn upon due to the project delays). Further, despite relating to the same project, the Funding Agreements for the two funding components are also inconsistent in their terms:

- the Funding Agreement for the \$2.5 million 2004 election commitment stipulated that the project period commenced on the date of the agreement and ended either on acquittal of the Australian Government's \$2.5 million contribution or December 2008, whichever occurred first; whereas
- the Funding Agreement for the 2007 \$3 million grant stipulated that the project period in relation to that grant ends on 30 June 2010.

**5.100** Further, in agreeing to change the project description and total project cost in an amended Schedule 2 to the Funding Agreement for the 2007 grant, the department wrote to Council stating that the \$3 million grant approved in the May 2007 Budget round must be fully expended before the \$2.5 million grant relating to the 2004 election commitment can be drawn on—yet, as noted, the project period for the \$2.5 million grant was to expire 18 months before that of the \$3 million grant.

### *Spending of Program funding*

**5.101** As noted, the payment of the full amount of each grant by 30 June 2007 was a key element of the 2007 Budget round. However, there have been some significant delays in the application of the prepaid funding to the construction of the relevant road project. For example, there were 21 projects (21 per cent of projects approved in the 2007 Budget round) where the audited annual report for 2007-08 provided to the department by the funding recipient stated that none of the Program funding paid to them in June 2007 had been spent by 30 June 2008. In total, \$49.6 million had been paid in June 2007 in respect to these 21 projects. The payments included:

- \$10 million to Cook Shire Council for its Lily Creek to Crocodile Gap project located in the then safe Liberal Party-held seat of Leichardt. That project had been the subject of an application to the 2006 application round and had been rated *High* by the department, but was not approved for funding in 2006 by the then Minister;
- \$10 million to Etheridge Shire Council for its Savannah Way Safety Improvements project located in the safe Independent-held seat of Kennedy (another 2006 application rated *High* by the department, but not approved for funding in 2006);
- \$4.77 million to Nannup Shire Council for its Mowen Road project located in the then safe Liberal Party-held seat of Forrest (also a 2006 application rated *High* by the department, but not approved for funding in 2006); and
- \$400 000 in respect to two of the projects that resulted from May 2007 letters from LGAs to certain Federal Members seeking funding (the \$150 000 paid to City of Onkaparinga for its Bishops Hill Road and Chandlers Hill Road intersection project and the \$250 000 paid to the Town of Gawler in relation to the intersection of Para/Potts and Main North Roads project).

**5.102** A further 32 Councils reported to the department in their 2007-08 annual reports that they had spent less than 10 per cent of the prepayment by 30 June 2008. In aggregate, Councils reported that, between June 2007 and June 2008, they had earned \$14.82 million in interest on the funding paid to them in June 2007.

**5.103** At the time ANAO audit fieldwork was concluded in November 2009, the most recent progress reporting to the department by funding recipients (generally as at 31 August 2009) indicated that \$129.9 million (52 per cent) of the \$250 million that had been paid out in June 2007 had been spent. In their progress reports to the department, funding recipients forecast spending a further \$73.1 million in Program funding over the remainder of 2009-10. This left more than \$47 million in funds not forecast to be spent by 30 June 2010, three years after the prepayments were made. This shortfall reflects the absence of forecasts being provided to the department by some funding recipients, and delays in projects.

**5.104** More specifically, there were 39 projects where the Program funding had been reported as having been spent in full. However, there remained

30 projects where less than half the pre-paid Program funding had been reported as having been spent by the conclusion of ANAO fieldwork in November 2009 (almost 2½ years after being prepaid to Councils). This included eight projects where the most recent progress reporting by the relevant Council to the department had stated that none of the funding paid in June 2007 had been spent to that time. These projects included the aforementioned \$10 million Savannah Way Safety Improvements project (Council's progress report as at 31 August 2009 had forecast that the Australian Government funding would be spent between September 2009 and June 2010), as well as:

- \$6.5 million in Program funding for Nebo Shire Council's Peak Downs Highway Upgrade (located in the electorates of Dawson and Capricornia)—the reporting to the department did not include the requested bi-monthly expenditure forecasts for this project (as the project is being undertaken by the Queensland Department of Main Roads, Council was reliant upon that agency preparing reports that it could submit to the department). August 2009 advice to the department was that the completion date for the project is September 2010; and
- \$1 million in Program funding to the City of Tea Tree Gully for its Montague Road Upgrade (located in the electorate of Makin). As at the end of August 2009, the department had been advised that the detailed design and plans had been circulated to the State Government for comment with an expectation that work would commence on the project in November 2009. Council's August 2009 progress report forecast that it would spend the Program funding between September 2009 and May 2010.

## Recommendation No.6

**5.105** ANAO *recommends* that the Department of Infrastructure, Transport, Regional Development and Local Government promote value for money and better manage risks in grant programs where it is proposed to make substantial payments of grant funding upon signing of the Funding Agreement by:

- (a) explicitly identifying through the project proposal and assessment processes the extent to which proponents require early payment of grant funds in order to progress the project;

- (b) undertaking, and advising decision-makers of the results of analysis of the risks, costs and benefits of payments being made in advance of project needs; and
- (c) tailoring progress reporting and other grant monitoring arrangements to reflect the heightened risks from advance payments.

*DITRDLG response:*

**5.106** Agree. The department notes that implementation of this recommendation must balance an assessment of the risks, costs and benefits of any advance payment against the funding level.

### **Projects funded in 2007 from savings and reallocations within the Program**

**5.107** The Strategic Regional Program Notes on Administration state that there were two funding rounds in 2007. The first related to the additional Program funding of \$250 million announced in the May 2007 Budget. The second involved:

\$1.77 million to three regional transport projects funded from project savings and re-allocations within the Program (announced post 2007 Budget).

**5.108** Each of the three projects funded through the second 2007 round were located in a Coalition-held seat. None had been the subject of an application to the 2006 competitive funding round, and only one of the three had been the subject of a subsequent request from the relevant Council for Strategic Regional Program funding.

### **Hawkesbury City Council project and additional City of Casey project: July and August 2007**

**5.109** On 20 July 2007, the then Minister for Local Government, Territories and Roads issued a Media Release announcing that the Member for Greenway had secured a \$750 000 funding commitment to deliver an upgrade to the intersection of Bells Line of Road/Old Bells Line of Road in Hawkesbury City Council. The Media Release referred to the recent death of a 3 year old girl at the intersection on June 15. It stated:

I call upon the Roads and Traffic Authority and Hawkesbury Council to immediately commence the necessary planning and design work. ...Preliminary indications are that this could involve measures such as installing traffic lights or constructing a roundabout.



**5.110** However, neither Hawkesbury City Council nor the RTA (which had responsibility for the intersection) had sought funding for such a project. In addition, the Media Release did not identify the program from which the project would be funded.

**5.111** Ten days later, on 30 July 2007, the department had advised the then Minister that the 2004 election commitment project to construct Bryn Mawr Boulevard Bridge (in the seat of La Trobe) had been completed at an expected final cost that was \$1.66 million lower than the commitment of up to \$10 million in Australian Government funding. The department advised the then Minister that the City of Casey had sought approval to use a portion of the remaining funds to:

- construct a left turn slip lane from Bryn Mawr Boulevard onto the Beaconsfield-Berwick Road at an estimated cost of \$300 000 (an element of the project that had been deferred previously due to public concern about the impact on an avenue of trees—the design had now been changed to go behind the trees); and
- complete the duplication of Kangan Drive from the existing eastern end of the dual carriageway to the Bryn Mawr Boulevard—Soldiers Road roundabout at an estimated cost of \$750 000.

**5.112** The department recommended that the then Minister approve the construction of the left turn slip lane on the grounds that it was consistent with the project announced in 2004 in that it would increase the efficiency and safety of traffic movements along Bryn Mawr Boulevard and provide the final link in the road network around Berwick. This was to be done by variation of the scope of the already funded project.

**5.113** The department recommended that the then Minister not approve a variation to the scope to allow the duplication of Kangan Drive to be completed. This was recommended on the basis that Council saw the duplication of this final section as a means of relieving congestion associated mainly with increased parking. As such, it was the department's view that the proposed works were primarily related to local traffic management and not consistent with the project announced in 2004.

**5.114** On 9 August 2007, the then Minister provided a Minute to the department which stipulated that he had decided that:

- the Bryn Mawr Bridge project scope should be varied to include construction of the slip lane at a capped cost of \$300 000 (which the

then Minister stated he understood meant that there would be a final cost of the project of \$8 554 868, which included the final amount to be claimed against the original project (\$115 868) plus the cost of the slip lane (\$300,000)); and

- \$1 445 000 of the remaining \$1 445 132 was to be allocated to:
  - a new project to finalise the duplication of Kangan Drive, Berwick. A letter of offer was to be prepared for his signature to provide up to \$695 000 conditional on the City of Casey agreeing to provide all additional funding required to complete the project (which the then Minister noted had a total estimated cost of \$750 000); and
  - the commitment of up to \$750 000 to fund a safety upgrade of the Bells Line of Road/Old Bells Line of Road intersection at Kurrajong made in his 20 July 2007 Media Release.

**5.115** Departmental records did not include any documentation identifying the basis on which the then Minister had decided to approve funding for the Kangan Drive and Bells Line of Road/Old Bells Line of Road intersection projects. The department also had not undertaken any inquiries to establish the nature of the works that would be undertaken with the Australian Government funding for the Bells Line of Road/Old Bells Line of Road intersection project.<sup>226</sup> In addition, the department did not assess the project against any eligibility or evaluation criteria. Such an assessment was necessary, for example, to appropriately inform the Minister's consideration as to whether to sign the Project Approval Instrument and, if so, on what basis.<sup>227</sup>

**5.116** There were long delays in Funding Agreements being signed for both projects. A first draft of the Funding Agreement for the Kangan Drive project was not provided to Council until 14 May 2008, more than seven months after Council had accepted the funding offer, and was signed a further four months later (on 12 September 2008) by which time the milestones in the draft

---

<sup>226</sup> In May 2008, the department wrote to a constituent who had raised concerns with various Ministers about the scope of the project, with the department stating that: 'It is our understanding that Council has been in contact with the NSW Roads and Traffic Authority regarding the details of the scope of this project and that traffic signals were determined to best address the safety concerns of this locality. It is therefore appropriate that you raise your concerns regarding the project scope with Hawkesbury City Council in the first instance.'

<sup>227</sup> See further at paragraphs 2.56 to 2.58.

Agreement had to be changed. Similarly, the Funding Agreement for the Bells Line of Road/Old Bells Line of Road intersection project was not signed until 21 August 2008 (one year after the funding offer had been made).

**5.117** Neither project had been completed and acquitted at the time ANAO audit fieldwork was completed (November 2009). Specifically:

- the Funding Agreement for the Bells Line of Road/Old Bells Line of Road intersection project stated that the estimated project cost was \$750 000 and required that the works reach practical completion by 30 December 2008, with a final acquittal of the project by 30 April 2009. Reflecting that neither Hawkesbury City Council nor the RTA had sought funding for such a project, the project was delayed during its implementation<sup>228</sup>, with the practical completion date being extended to 30 March 2010 and the final acquittal date to 30 May 2010; and
- the Funding Agreement for the Kangan Road project stated that the total estimated project cost was \$750 000 and required that works reach practical completion in May 2009, with a final acquittal of the project by 30 June 2009.<sup>229</sup> In September 2009, Council reported to the department that the project had reached practical completion but, at the time ANAO audit fieldwork had been completed (November 2009), the project had not been acquitted such that the final cost was not known. In April 2010, DITRDLG advised ANAO that:

The Department is working closely with the relevant Local Government Authority to obtain a final acquittal of this project. Resourcing issues in the Local Government Authority has delayed the Department in obtaining the acquittal. The Department will continue to monitor the situation until the matter is resolved.

<sup>228</sup> For example, in May 2009 Council advised the department that: 'It is acknowledged that the project will not be completed by 30 June 2009 and, in accordance with clause 6.1 of the Funding Agreement, your consideration is sought to extend the project timeframe for further twelve month period, for the following reasons: The delays to date are directly attributable to the RTA approval process associated with complex engineering and environmental matters; Council staff, consultants and community groups have invested a significant amount of time, effort and finances in progressing this project to the final approval stage; and final project plans have only recently (13 May 2009) been approved by the RTA.'

<sup>229</sup> The Funding Agreement was inconsistent with the then Minister's 20 August 2007 letter of offer to Council which had stated that: 'The Australian Government offer of funding is conditional on the project being completed by June 2010, not by the first quarter of 2009 as for those projects announced in 2006.' A similar inconsistency exists in relation to the Bells Line of Road/Old Bells Line of Road intersection project.

## **District Council of Mount Barker project: August 2007**

**5.118** In December 2006, as part of the 2006 funding round, the District Council of Karoonda East Murray in South Australia was awarded \$495 000 towards the \$990 000 estimated cost of constructing a 750 metre rail siding off the Loxton to Taillem Bend rail route to the proposed site of the Mindarie Zircon Project's mineral separation plant (the Mindarie Railway Siding project, located in the seat of Barker).

**5.119** On 19 March 2007, Council requested a change of scope to the project to reallocate the funding to the construction of a loadout facility. The request was made on behalf of its project partner, Australian Zircon, which was the owner/operator of the Mindarie Zircon project (and was providing the partner funding of \$495 000 included in the 2006 application to the Program).

**5.120** In August 2007, the department recommended to the then Minister that he not approve the requested scope change<sup>230</sup>, withdraw the offer and instruct the department on the reallocation of the \$495 000. On 21 August 2007, the then Minister's Office sought the department's comments on a draft memorandum from the Minister agreeing to the withdrawal of the funding offer for the Mindarie Railway Siding Project and determining that \$325 000 of the \$495 000 be offered to 'a new project for the installation of traffic lights at the intersection of the Princes Highway/Woodyard Road/Saleyard Road at Nairne in South Australia.' At the suggestion of the then Member for Mayo, a project for traffic lights at the intersection of the Princes Highway and Woodside Road/Saleyard Road had been the subject of a 10 August 2007 nomination to the Black Spot Program.

**5.121** The department returned the draft memorandum to the then Minister's Office with a tracked change correcting the name of the project (from 'Woodyard' to 'Woodside'). However, the department did not provide any advice to the then Minister or his Office as to:

- the risks involved in approving Strategic Regional Program funding for a project that had been recently nominated for funding through the Black Spot Program, given that this would bypass the established evidence-based approach to identifying black spots, developing

---

<sup>230</sup> The department made this recommendation on the basis that: 'the scope differs significantly from the originally submitted and assessed project and that it does not achieve the same benefits as the original project. In addition, Australian Zircon were always intending to construct the loadout facility as part of the larger Mindarie Zircon project using their own funds and have indeed commenced its construction'.

proposed treatments and the cost of treatment, and ranking nominated projects so that they can be prioritised for funding<sup>231</sup>; or

- whether any information should be sought from the Council to inform an assessment of the project's merit in relation to the objectives of the Strategic Regional Program, or the criteria to be applied in any such assessment. As a result, the project was not assessed by the department against any eligibility or evaluation criteria.

**5.122** A signed memorandum from the then Minister determining that \$325 000 in Program funds was to be provided for the new project at Nairne in South Australia was provided to the department on 21 August 2007. The basis for the then Minister's approval was not documented.

**5.123** The Black Spot Program project nomination had stated that the cost of the project to the Program would be \$325 000<sup>232</sup>, with work to be undertaken between October 2008 and early 2009. Council has advised ANAO that this cost estimate did not include an amount for land acquisition associated with the installation of traffic lights. Council further advised ANAO that the cost estimate was based on a February 2002 (*ANAO emphasis*) consultancy report and provided a copy of the report to ANAO. For the traffic light option, the 2002 consultancy report had identified a total 'first order'<sup>233</sup> cost estimate of \$627 400, including land acquisition costs of \$340 500.

**5.124** In October 2008, Council advised the Minister for Infrastructure, Transport, Regional Development and Local Government that, since the Funding Agreement had been signed on 14 December 2007:

cost estimates for this [*traffic signals*] option have been further developed. The overall project cost inclusive of land acquisition, service relocations and traffic signals is estimated to be close to \$2 million.

...I am pleased to advise that Council has worked closely with the South Australian Government and a more cost effective solution has been devised.

<sup>231</sup> This evidence-based approach to the administration of the Black Spots Program is intended to result in the highest priority road safety Black Spot projects being selected and funded so as to achieve the highest benefits from Commonwealth expenditure in this area. See further in ANAO Audit Report No. 45 2006-07, op. cit., pp. 15-16.

<sup>232</sup> No partner contributions were identified in the project nomination.

<sup>233</sup> The consultancy report stated that: 'the cost estimates are first order estimates only based on typical construction rates for the various items of work. They have been prepared without the benefit of detailed design processes, which can sometimes expose significant items of work due to unforeseen circumstances.'

...I recently met with the [State] Minister for Road Safety. We discussed how the project (as revised) could be funded and I am very pleased to advise that [the Minister] has committed to match the funding contributions of both the Federal Government and Council of \$325 000 each, to provide a total project budget of \$975 000 assuming the Federal Government commitment is preserved.

**5.125** As a result, the department requested that Council provide it with a PPR that reflected the new project scope and details; a breakdown of the cost of each of the six key elements of the proposed revised scope; the anticipated benefits the change in scope would deliver over the initial scope; and anticipated milestones for the project.

**5.126** This process of inquiry drew attention to further work that had been undertaken by Council, with the State Government, to investigate work at and near the intersection of the Princes Highway/Woodside Road/Saleyard Road. The result was that, on 17 January 2009, the current Minister approved a variation to the scope of the project.<sup>234</sup>

**5.127** Council advised the department that construction was expected to begin in March 2009 and be completed by June 2009. However, to avoid a further extension of the Funding Agreement in the event of further delays, the Funding Agreement was varied to provide for an expiration date of June 2010. At the time ANAO audit fieldwork was completed (November 2009), the most recent (for the period ending 31 August 2009) progress report from Council had advised that it expected the project to be completed in October 2009.<sup>235</sup> In March 2010, the department advised ANAO that the road construction element of the project had been due to be completed by 28 February 2010, and that land acquisition was due to be completed by June 2010.

---

<sup>234</sup> Under the revised scope, rather than the installation of traffic lights, the project is to, for an estimated total cost of \$975 000: construct a new Pedestrian Activated Crossing on the Princess Highway, east of Woodside Road; widen Saleyard Road; provide an off-road walkway from the Princes Highway near the new pedestrian crossing direct to the Nairne Primary School; undertake kerbing, drainage, footpath, road verge sealing and a pedestrian crossing across the railway line work on Woodside Road; and construct a pedestrian refuge on Woodside Road north of the railway crossing.

<sup>235</sup> In relation to progress, Council had reported that: the Pedestrian Activated Crossing had been constructed and opened in July 2009; complete construction of Saleyard Road was scheduled for the September 2009 school holidays; construction of the improved access to Nairne Public School had been undertaken during the March 2009 school holidays; and design of the Woodside Road work was complete, but the construction estimate was significantly higher than had been expected, with the scope being adjusted as a result.

## Project savings and program contingency arrangements

**5.128** The importance of decisions to fund infrastructure projects being based on robust cost estimates is well recognised. Nevertheless, it is not possible for the application of cost estimating standards to eliminate cost overruns.<sup>236</sup> The management of cost overruns, as well as any savings for individual projects, is an important aspect of the overall management of infrastructure funding programs. For example, the current MoUs with the Western Australian and Tasmanian State Governments for projects on the National Network include contingency reserves of \$67.5 million and \$18.55 million respectively, as follows:

The contingency is provided to fund anticipated increases in the Australian Government contribution for designated projects.<sup>237</sup>

**5.129** For the Strategic Regional Program, the approach taken has been to allocate almost all of the available Program funding to individual projects with no contingency reserve being retained. For example:

- 99.9 per cent of the \$126.875 million in funds available for the 2006 funding round was allocated to projects (leaving a balance of \$134 243);
- after initially over-allocating the available funding<sup>238</sup>, 99.9 per cent of the \$250 million in funds available for the 2007 Budget round was allocated (leaving a balance of \$154 297); and
- in July 2009, the department advised ANAO that \$975.5 million in appropriation funding had been allocated to fund 2007 election commitments under the Program and that all of these funds had been allocated to individual projects.

---

<sup>236</sup> For example, the cost estimation standard adopted in 2008 for projects on the defined National Land Transport Network recommended that both P50 and P90 estimates (or their equivalent) be provided in any submission for Australian Government funding. This means that, even where there has been sound project management and cost planning, it is probable that the overall estimate will be exceeded:

- for half of all projects where a P50 estimate is used; and
- for one out of ten projects where a P90 estimate is used.

<sup>237</sup> The contingency provided under the agreement with the Western Australian State Government was later used to provide an additional \$16.5 million in funding to the Mandurah Entrance Road project, a 2007 election commitment under the Strategic Regional Program.

<sup>238</sup> The then Minister had initially advised the department that he was allocating a total of \$270.82 million (108 per cent of the \$250 million available at that time) on the basis of verbal advice from the department that the number of actual acceptances may be as low as 70 per cent of the total number of offers made (see paragraphs 5.50 to 5.52).

**5.130** As outlined in Chapter 5 (see paragraphs 5.67 to 5.77), in June 2007 after one of the recipients of an offer of funding as part of the 2007 Budget Round advised the department that it was not in a position to accept the offer, the then Minister's Office sought advice on the total amount of unallocated Program funding. As a result, a total of \$10.4 million was subsequently allocated to 13 projects so as to fully commit the available Program funding.

**5.131** On each occasion, there was no documented consideration given to the merits of applying the available Program funding to other projects that had experienced cost increases that the project proponent had advised the department it would have difficulty funding. Typically, in these circumstances the department advised the proponent that Program funding had been fully allocated such that no additional Australian Government funding was available, or that the Australian Government funding was capped. In some instances, this advice resulted in the project scope being reduced.

**5.132** This situation was further compounded by the absence of any documented policies or procedures to address the application of any savings that might originate from projects. This was notwithstanding the importance of the savings sharing provisions incorporated into the standard Funding Agreement used for the Program. For example, in this respect, in August 2008 the department advised the City of Casey (in relation to the request to apply cost savings on the Bryn Mawr Bridge project to the Kangan Drive project) that:

When the Strategic Regional Program (SRP) was developed in 2005-06, its program guidelines incorporated the principles of fostering intergovernmental partnerships with LGAs. With this partnership framework in mind, the savings clause has become an integral part of the standard funding agreement used for SRP projects. Therefore, any savings would be distributed proportionately to the amount each party contributed to the total estimated cost.

**5.133** Various versions of the Program's Notes on Administration have advised project proponents that:

**Project Savings**

Where Council has completed the project and the cost of the project is less than the agreed total cost, the Australian Government will be entitled to receive a proportionate amount of the savings based on the Australian Government's contribution to the total cost of the project.



**5.134** However, neither the Notes on Administration nor internal departmental policies and procedures have addressed how any project savings ‘returned’ to the Commonwealth were to be applied.<sup>239</sup> In addition, the approach outlined in the Notes on Administration was not consistently adopted. In some instances, the project proponent was permitted to increase the scope of the funded project or (as occurred in relation to the Bryn Mawr Bridge project and the Nairne Signalised Intersection project) undertake an additional project, without any assessment being undertaken as to the whether quarantining the funds to that proponent represented the optimal use of Program funding having regard to other projects that had experienced cost increases thereby putting pressure on the project scope. Amongst other things, this approach provides an incentive to proponents to include large contingency figures in their project budgets.

**5.135** In addition, as illustrated by the Bells Line of Road/Old Bells Line of Road intersection project, the approach taken in relation to distributing savings realised by one proponent to another Council was not open and transparent, with projects not being assessed on merit either against one another or against documented criteria.<sup>240</sup>

---

<sup>239</sup> By way of comparison, the MoUs signed with the States and Territories for projects on the National Network (approved under Part 3 of the land transport legislation) provide that savings are to be applied to another project(s) listed in the schedule to the MoU. Because Off-Network Projects approved under Part 6 of the legislation that are to be delivered by a State are now also included in the MoU in addition to National Network Projects approved under Part 3, the MoU provisions also apply to the Part 6 projects. However, ANAO notes that the MoU provisions only stipulate that savings achieved under a project will be applied to another project(s) in Schedule A to the MoU. It does not stipulate that savings arising in relation to a Part 6 project may only be reallocated to another Part 6 project listed in the Schedule, as opposed to a Part 3 National Network project listed in the Schedule. The inclusion of Part 6 projects in the MoUs is discussed further at paragraphs 2.76 to 2.79.

<sup>240</sup> See paragraphs 2.15, 5.109 to 5.117 and Table 2.2.

## Recommendation No.7

**5.136** ANAO *recommends* that, recognising the likelihood that project out-turn costs for infrastructure projects will differ from the estimate on which funding was approved, the Department of Infrastructure, Transport, Regional Development and Local Government advise decision-makers on:

- (a) the merits of not fully allocating available Program funding so as to provide a contingency reserve that would be available to assist manage cost pressures on projects that have previously been approved for funding based on their merit in achieving Program objectives; and
- (b) processes for re-allocating any savings realised on individual projects.

**DITRD LG response:**

**5.137** Agree.

## 6. Election Commitments

---

*This chapter examines the projects funded in the first and fifth funding rounds as a result of commitments made in the context of the 2004 and 2007 Federal elections by the former Coalition and current Labor governments respectively.*

### Introduction

**6.1** The Parliamentary and statutory framework within which Ministers operate includes a number of checks and balances designed to promote 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.

**6.2** 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. The use of public money to fulfil such 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.<sup>241</sup>

**6.3** In this latter respect, in Audit Report No.14 2007-08 ANAO noted that:

...the financial framework requires that any decision by a Minister or authorised official to approve the expenditure of public money to satisfy an election commitment following an election 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

---

<sup>241</sup> ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, op. cit., pp. 54-55.

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.<sup>242</sup>

**6.4** As part of the process for allocating election commitments to Ministerial portfolios for administration, departments are responsible for assessing, and providing early advice to Government on, whether commitments can be accommodated within existing program arrangements.<sup>243</sup> In addition, in putting election commitment projects forward for possible funding approval following an election, it is also important for departments to ensure Ministers are appropriately informed as to the nature of the project and whether it is likely to make efficient and effective use of the public money. This assists Ministers in carrying out their statutory obligations in respect to approving the expenditure of public money.<sup>244</sup>

**6.5** Consistent with these principles, in May 2009 Finance advised the department in respect to the Better Regions Program (which is the vehicle for funding a package of 2007 election commitments relating to regional grants) that:

While the letters [*to project proponents from the Minister and the department respectively in relation to election commitments*] refer to a specific dollar amount for a project, there does not appear to be a commitment to provide this money to the project proponent. Rather, the letters appear to explain that the Government is working on how to implement election commitments (for the first letter) and what steps and actions would be involved for the potential project funding to be approved if it were to be approved (in the second letter). Given this wording, the letters do not appear to be a simple conditional commitment of funds, rather they appear to set out what process the potential project funding recipient needs to go through in order to potentially receive funds. Of particular note is the reference that there is an application process, which includes assessment of the project by Government where the Government needs to be satisfied that the project would be an efficient and effective use of public money.

---

<sup>242</sup> *ibid.*, p. 56.

<sup>243</sup> *ibid.*, p. 55.

<sup>244</sup> *ibid.*

**6.6** As noted at paragraphs 5.115 and 5.120, there was no departmental assessment of the three projects approved for a total of \$1.77 million in Strategic Regional Program funding in July and August 2007 against any eligibility or evaluation criteria. By way of comparison, assessment processes were, ultimately, developed for both the 2004 and 2007 election commitments funded under Part 6 of the land transport legislation.

## Origin of 2004 election commitments

**6.7** Shortly prior to the 7 June 2004 public release of the AusLink White Paper, the department advised the then Minister for Transport and Regional Services and then Minister for Local Government, Territories and Roads on the proposed process for selecting projects for funding from the strategic regional component of the new R2R program to be implemented under AusLink, known as R2R2. A two stage application process was envisaged, commencing in September 2004 (by which time the Program Guidelines were to be available):

- the first stage was to involve a call for ‘project abstracts’ which the department would assess, and obtain advice from Area Consultative Committees on, prior to the then Minister for Local Government, Territories and Roads deciding which proposals would proceed to the second stage; and
- Stage 2, expected to commence in December 2004, was to involve successful Stage 1 applicants further developing their proposals including providing detailed data on economic and social benefits/impacts, technical merit and environmental issues. Assessment was to be made against ‘more stringent and detailed indicators which will be weighted to assist in prioritisation.’ It was envisaged that applications would close in February 2005, with funding decisions to be made in May 2005 for first payments to occur in July 2005.

**6.8** 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.<sup>245</sup> Accordingly, planning for implementation of a strategic regional fund involving an applications-based, competitive allocation of funds

---

<sup>245</sup> ANAO Audit Report No. 14 2007–08, Volume 2—Main Report, op. cit., p. 95.

to individual projects continued during July and August 2004, with the intention of applications being sought before the end of 2004.

**6.9** On 29 August 2004, the then Prime Minister announced the 2004 Federal election (for 9 October 2004). The writs for the election were issued on 31 August 2004, with the caretaker period commencing at 5:00 pm that day.

**6.10** On 2 September 2004, the then President of ALGA wrote to the then Minister for Transport and Regional Services in relation to the proposed strategic component of R2R2, as follows:

I am writing to seek your clear assurances on some key elements of the new 'Roads to Recovery' (R2R2) program.

It was very reassuring to receive some recent positive feedback from [*the then Minister for Local Government, Territories and Roads*] on ALGA's call for the R2R2 strategic component to be allocated on a state shares basis—a measure also publicly supported by his predecessor...during the recent National Local Roads Congress.

Nonetheless, there remains substantial disquiet among many local councils over the potential inequity associated with a single national R2R2 strategic component pool. An early, positive statement confirming state-based allocations would be of considerable value in allaying local government concerns in this area. Clearly, an announcement well before 9 October would be required.

Another point of some uncertainty is the degree to which the R2R2 strategic component will be available, if at all, to metropolitan councils. Confirmation that all councils will be entitled to bid for such funds will help address the growing concerns in this area.

We wish to ensure that the R2R2 program will continue to be seen as an outstanding example of the ongoing and highly effective partnership between our two spheres of government. In this regard, timely clarification of the Coalition's position on this matter is important.

**6.11** The then Minister responded on 17 November 2004, following the 9 October 2004 election, advising:

The Government is steadfastly committed to assisting local government in tackling the serious back log of local road upgrading works around Australia. Under AusLink, the Government is keen to continue to work in partnership with local government towards a safer and more efficient regional local road network.

These sentiments were validated by the Government's *Building Our National Transport Future* announcement of 15 September 2004, providing \$1.35b for Roads to Recovery over 5 years—adding \$150m for regional transport infrastructure over and above the \$1.2b announced in the AusLink White Paper. This includes \$30m for roads in unincorporated areas over 4 years from 2005-06.

This policy re-instates Roads to Recovery payments in full to every local council for a further 4 years.

This is a good result for local government, and ensures that the bulk of the funds under the Roads to Recovery Programme remain in the hands of local councils, who over the past 4 years have delivered hundreds of tangible road improvements to their communities.

The Government is in the process of developing key elements of the AusLink Roads to Recovery strategic regional fund, such like the eligibility of the fund to metropolitan councils. On this point, however, I can assure you that the programme will be open to all councils.

I expect to announce determinations about the operation of this programme in the near future.

## **Allocation of program funding to election commitments**

**6.12** The Minister's advice to ALGA did not indicate that 78 per cent (\$94.085 million) of the \$120 million announced on 15 September 2004 as being available to the strategic component under the Coalition's election policy (excluding \$30 million allocated to unincorporated areas) had already been the subject of Coalition funding announcements made prior to and during the 2004 election campaign in respect of 23 projects.

**6.13** The 23 election commitments involved projects located in 15 of the 150 Federal electorates (10 per cent of all electorates). They predominantly related to Coalition-held electorates (19 projects, or 83 per cent).<sup>246</sup> The significant majority of these (16 of the 19 projects—84 per cent) were located in electorates that, at the time of the announcement, were categorised by the Australian Electoral Commission (AEC) as 'marginal', with the remaining three projects relating to Coalition-held electorates categorised as 'fairly safe' (no announcements were made in relation to Safe Coalition-held seats).

---

<sup>246</sup> Where a road project crossed more than one electorate, for the purposes of this analysis, it was allocated to the electorate of the Member that announced the funding.

**6.14** The other four election commitment projects related to ALP-held seats. These involved two projects in each of two electorates in Tasmania categorised by the AEC as marginal (Bass and Braddon). Both seats were won by the Coalition at the 2004 Federal election.

**6.15** Funding for a single project was announced in relation to nine of the 15 affected electorates.<sup>247</sup> There were a further four electorates for which two projects were announced.<sup>248</sup> Two electorates (Eden-Monaro and Paterson) each had three project announcements.

### **Identification of 2004 election commitments**

**6.16** As noted, party election policies and other 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.<sup>249</sup> There are no documented criteria for distinguishing election commitments from other promises, notwithstanding that commitments may range from:

- announcements made by an individual candidate that are not included in his/her party's formal policy document in circumstances where the candidate is not currently in Parliament, his/her party is not currently in Government and the candidate is then not elected to the Parliament; through to
- announcements included in the incumbent party's formal policy document that is released by the relevant Minister(s) and is submitted for costing under the *Charter of Budget Honesty Act 1997*.

**6.17** On 21 October 2004, the department requested that the then Minister for Transport and Regional Services confirm \$93.185 million in Coalition election commitments to be funded from the Strategic Regional Program. The departmental list of 22 identified election commitments:

- included funding of \$125 000 for a project in respect to Bribie Island Road in Queensland—ultimately, no Program funding was approved

---

<sup>247</sup> Namely: Dobell; Kalgoorlie; La Trobe; Leichardt; Longman; Macarthur; McEwen; McMillan and Wentworth.

<sup>248</sup> Namely: Bass; Braddon; Gippsland; and Hinkler.

<sup>249</sup> ANAO Audit Report No. 14 2007–08, Volume 2—Main Report, op. cit., p. 139 and ANAO Audit Report No. 29 2008–09, op. cit., p. 158.



for this project as an actual project was unable to be identified.<sup>250</sup> The \$125 000 in Program funds was ultimately added to other available funding in mid-2007 to provide a source of funds for the then Minister to identify other projects he wished to fund (see paragraph 5.73); but

- excluded a commitment announced during the 2004 election campaign by the sitting Liberal Member for McMillan that \$900 000 would be provided from the Strategic Regional Program to seal an 18 kilometre section of Grand Ridge Road between Korumburra-Warragul Road and Mirboo North. However, this commitment was not identified by the department when preparing its incoming Government briefing (the project was subsequently funded through the 2006 funding round—see paragraphs 6.20 to 6.23).

**6.18** In April 2005, the then Minister for Local Government, Territories and Roads wrote to relevant local Members to advise them of the Australian Government funding that would be provided under the Strategic Regional Program for projects in their electorate announced during the 2004 election campaign. The then Minister's letter stated that the Government had accelerated the implementation of the Strategic Regional Program with the announcement of an initial series of priority projects totaling \$93.185m. This represented 77 per cent of the funds that were announced in the 15 September 2004 election policy document as being available under the strategic component.

**6.19** Subsequently, 21 projects were approved between 21 October 2005 and 26 February 2007 for a total of \$93.06 million in Program funding.<sup>251</sup> However, some projects had already commenced by the time Program funding was approved. For example:

<sup>250</sup> The only information identified by the department in relation to this commitment was a press clipping from the *Bribie Island News* of 20 October 2004 stating that the funding was for road work near a service station (the location of a recent fatality). The department noted that the Queensland Department of Main Roads (QDMR) was responsible for the road and had undertaken work on line markings shortly after the fatality. In this respect, in July 2005, the department documented the work it had undertaken in respect to this election commitment as follows: 'Following approval of [*Interim Program Guidelines compiled following the 2004 election in relation to the use of the Strategic Regional Program for funding election commitment projects*], in late April I gathered more information on this commitment prior to [*the then Minister for Local Government, Territories and Roads*] writing to the Queensland Minister re the Queensland commitments. Advice as follows: (a) Caboolture Shire knew nothing of the proposal and sought a transfer of funds to other shire priorities; (b) QDMR referred to the linemarking work mentioned above; and (c) [*the Office of the then Member for Longman*] was vague on the intention of the funding.'

<sup>251</sup> This excludes the Bribie Island Road election commitment which was not ultimately approved as an actual project could not be identified (see paragraph 6.17).

- in its 15 May 2006 advice to the then Minister recommending that he approve \$500 000 in funding for the Russett Park Bridge project in Queensland, the department stated that construction of the bridge was nearing completion (based on advice and photographs provided to the department by Mareeba Shire Council); and
- the rehabilitation of Port Sorrell Main Road in Tasmania was undertaken by the Tasmanian Department of Infrastructure, Energy and Resources such that, at the time of the 31 March 2006 departmental advice to the then Minister that Program funding should be approved for the project, the two sections of work to which the election commitment related had been completed at a cost that was some \$200 000 below the \$500 000 election commitment announced in 2004. However, the full amount of the 2004 election commitment was approved, with the excess being used to fund additional work on the Port Sorrell Main Road.

#### *Subsequent funding for unidentified election commitment project*

**6.20** Following the election, Baw Baw Shire Council made representations to the Member for McMillan and the then Minister for Local Government, Territories and Roads in respect to the funding announced for Grand Ridge Road which, as noted, was not included in the election commitments identified by the department as relating to the Strategic Regional Program (see paragraph 6.17). A number of community groups and constituents also made representations to the local Member, the then Minister and/or the then Prime Minister concerning the election announcement of funding for this road. Council, community groups and concerned individuals were all advised that there was no further funding available under the Program until 2007-08 and 2008-09; that this funding would be subject to a competitive bidding process; and the two relevant Councils<sup>252</sup> may wish to apply for funding in the competitive round.

---

<sup>252</sup> The road is located in both Baw Baw Shire and South Gippsland Shire. July 2005 correspondence from the two Shires to the Member for McMillan advised that 8.85 kilometres of work was proposed on the road in Baw Baw Shire at a cost of \$176 036 per kilometre, with a total cost of \$1 557 919 and 9.24 kilometres of work was proposed in South Gippsland Shire at a rate of \$224 900, with a total cost of \$2 069,080. The Councils advised the Member that the higher estimate per kilometre for work in South Gippsland Shire reflected the 'more tortuous alignment of the road' within that Shire. The Councils also proposed to allow some contingency for environmental issues that may arise during the project, general clean up of weeds, refurbishment of landscape lookouts and 'judicial tree planning to enhance the tourist drive experience', bringing the total project estimate to \$4 million.

**6.21** Accordingly, on 20 April 2006, Baw Baw Shire Council submitted an application to the 2006 round of the Strategic Regional Program for a project titled 'Grand Ridge Road Construction and Sealing'. The project set out in the application had an estimated total cost of \$1.3 million, of which \$900 000 was being sought in Program funding and \$200 000 would be contributed by each Council. The project estimate included in the April 2006 application was significantly lower than the \$4 million the Councils had advised to the Member for McMillan in July 2005 (see footnote 252). The application also proposed a reduced scope of works. While it continued to propose around 8.9 kilometres of work in Baw Baw Shire, only three kilometres of work would be undertaken in South Gippsland Shire (down from 9.24 kilometres).<sup>253</sup>

**6.22** Overall, the department rated the project *Low* against the published criteria, with the following reasoning being advised to the then Minister:

The application generally meets the community and regional significance criterion, but does not clearly demonstrate that the project will bring improvements to transport infrastructure. There is some evidence that the project will improve logistics and access for the community to services. The project will generally improve quality of service. The [*Area Consultative Committee*] advises that Grand Ridge Road is a significant route for the region, used by local (residents, industry and agricultural) and tourist traffic. Whilst the [*Area Consultative Committee*] strongly supports this project, the general lack of strong evidence to support the application produces a generally low rating.

The application meets the funding criterion. The project is for local infrastructure and therefore does not require a funding contribution, however the proponent is contributing \$400 000, representing 30.77 per cent of the total cost of the project.

The overall engineering risk is rated medium. The construction timeline is low risk. No detailed breakdown of the estimated cost has been provided but in

<sup>253</sup> The \$900 000 in Program funds sought under the April 2006 application matched the funding amount that had been announced by the Member for McMillan during the 2004 election campaign, but which was not included in the election commitments identified for funding from the Strategic Regional Program following the election (see paragraph 6.17). Although the two Councils had made representations to the then Minister for Local Government, Territories and Roads during the second half of 2005 for \$3.6 million to undertake the sealing of 18 kilometres (with the Councils to contribute \$200 000 each), in April 2006 a Councillor advised a meeting of the South Gippsland Shire Council that the potential funding available for the project through the 2006 funding round was \$900 000, which would leave the total budget for the full sealing works well short. On 25 April 2006, South Gippsland Shire Council agreed to joining Baw Baw Shire in seeking \$900 000 in Strategic Regional Program funding for a project that would seal only three of the 9.24 kilometres of the road in its local government area.

the engineering assessor's professional judgement, it may be just sufficient for providing 200m of gravel and sealing at 5.6m width in this hilly terrain and rural environment. The project generally meets the safety criterion. There is some supporting information given to demonstrate the project will improve the safety of transport operations.

The project barely meets the community access/social significance criterion. The application has not indicated how the project will improve access to employment. Some evidence has been provided to indicate that the project will improve access to amenities and services.<sup>254</sup>

**6.23** Nevertheless, on 6 December 2006, the project was approved for funding by the then Minister for Local Government, Territories and Roads.<sup>255</sup>

## Origin of 2007 election commitments

**6.24** In the 2007 Mid Year Economic and Fiscal Outlook (MYEFO) document, the then Coalition Government announced that it would provide additional funding of \$185 million over five years for road projects other than under the *AusLink (National Land Transport) Act 2005*. This comprised funding for the construction of the Kingston bypass in Tasmania (\$30 million); duplication of the Southern Expressway in Adelaide (\$100 million); and a further \$55 million in funding for the upgrade of the intersection at Whitehorse

---

<sup>254</sup> The July 2005 advice from the Councils to the Member of McMillan (see footnote 252) had been forwarded to the then Minister by the Member and was held in departmental records. However, the departmental assessment of the April 2006 application did not reconcile the project cost information set out in that advice with the application budget. Specifically, applying the construction cost per kilometre rates set out in Council's July 2005 advice (and the proposed contingency allowance of 10 per cent), to the project lengths identified in the application of 8.9 kilometres in Baw Baw Shire and three kilometres in South Gippsland Shire would have resulted in a total project cost estimate of \$2.24 million, instead of the \$1.3 million nominated in the application.

<sup>255</sup> Information provided after the project had been approved revealed that the tender accepted by Baw Baw Shire Council was for resheeting and sealing their section, rather than reconstruct and seal, as had been indicated in the application and advised to the Minister. The departmental assessment also did not seek to establish whether the scope of works proposed in the application would fully seal the road (given the claimed benefits from the project related largely to providing a route for heavy vehicles). In this respect, in providing the Project Approval Instrument to the then Minister for his signature on 23 May 2007, the department advised that South Gippsland Shire Council was proposing that the scope of works in its shire be increased to five kilometres (a saving in the cost of sourcing gravel had meant that it would be able to seal two additional kilometres—indicating that the scope of works set out in the application approved by the then Minister would not provide a fully sealed route). Further, both the Approval Instrument and Funding Agreement required that work in South Gippsland Shire commence 4.1 kilometres from the council boundary. In recommending to the then Minister that he agree to the scope variation and sign the Approval Instrument on the basis that the project would provide improved access and safety for timber cartage vehicles and local industry vehicles, the department did not seek to establish whether that 4.1 kilometres had already been sealed or whether, after the project was completed, a significant section of road would remain unsealed. The scope variation was agreed to by the then Minister and the Funding Agreement signed in June 2007.

and Springvale roads in Melbourne's eastern suburbs. In September 2008, the department advised the current Government that these three projects were larger in scale than those previously funded under the Strategic Regional Program, and were all on State roads.<sup>256</sup>

**6.25** During 2007, the then-Opposition had announced a number of land transport election commitments, including a matching \$55 million commitment of additional funding to the Whitehorse/Springvale Drive project. The then-Opposition also made a lesser (\$15 million) commitment to the Kingston Bypass, but did not make any commitment to the Southern Expressway. This left \$115 million in available funding from the 2007 MYEFO measure that was available to fund election commitments of the new Government.

**6.26** In September 2008, the Minister for Infrastructure, Transport, Regional Development and Local Government agreed to a recommendation that the *Funding for road projects other than under the AusLink (National Land Transport) Act 2005* sub-program be incorporated into the *AusLink Strategic Regional* sub-program under Part 6 of the (then) AusLink Act (now Nation Building Act). Pending a review of AusLink programs, this consolidation of sub-programs was intended to enable better administration and programming arrangements to be put in place in light of six projects being funded in the 2008-09 Budget under the Strategic Regional sub-program and four projects under the non-AusLink roads sub-program, with the department advising the Minister that:

There was no real differentiation between the types of projects chosen for funding under the two sub-programs, all being off the National Land Transport Network. The guiding principle in the classification of the projects was to use available funding to enable commencement in 2008-09 of as many of the Government's election commitments as possible.<sup>257</sup>

**6.27** As noted as paragraph 5.129, in July 2009 the department advised ANAO that \$975.5 million in appropriation funding had been allocated to fund 2007 election commitments under the Strategic Regional Program and that all

---

<sup>256</sup> Some projects previously funded under the Strategic Regional Program had also been on State roads. The 2006 Program Guidelines had required partner funding of a minimum of 50 per cent of total project costs for projects on State roads.

<sup>257</sup> For example, the department had advised the Minister that there was \$210 million in funding for the *non-AusLink roads* sub-program over the years to 2011-12, but that the cost of the four projects funded in the 2008-09 Budget, together with the \$80 million in funding commitments to another project, exceeded (by \$37.5 million) the available funding.

of these funds had been allocated to individual projects. In March 2010, the department advised ANAO that, of 44 projects to be funded under Part 6, there were:

- 25<sup>258</sup> election commitment projects approved under Part 6 of the land transport legislation, with a total Australian Government contribution of \$424.95 million toward total estimated project costs of \$719.516 million; and
- 19<sup>259</sup> election commitment projects proposed since 10 October 2007 but not yet approved under Part 6 of the legislation, with a total Australian Government contribution of \$255.25 million towards total estimated project costs of \$457.25 million.

**6.28** Subsequently, in April 2010, the department advised ANAO that there were some inaccuracies in its earlier advice. Updated information provided to ANAO was that there were 45 projects to be funded under Part 6, comprising 11 projects to be delivered by LGAs and 34 to be delivered by the States. Compared to the March 2010 advice, the revised information provided to ANAO excluded two projects that were actually to be funded under Part 3 of the land transport legislation and now included three additional projects that had not been included in the March 2010 advice. The 45 projects included:

- the same 25 election commitment projects from the March 2010 advice that had been approved under Part 6 of the land transport legislation with a total Australian Government contribution of \$424.95 million toward total estimated project costs of \$719.516 million; and
- 20 election commitment projects proposed since 10 October 2007 but not yet approved under Part 6 of the legislation, with a total Australian Government contribution of \$282.55 million towards total estimated project costs of \$423.25 million.

## Assessment of 2004 election commitment projects

**6.29** Following the 2004 election, the department recognised that:

The announcements during the election period represented a new direction—with projects selected by the government rather than on application, with

---

<sup>258</sup> Of which one comprised six sub-projects.

<sup>259</sup> Of which two comprised two or more sub-projects.

conditions (like matching funding requirements) added and with difficult start dates for some projects this financial year.

**6.30** In this context, in asking the then Minister for Local Government, Territories and Roads to confirm the identified 2004 election commitment projects, the department advised the then Minister that:

These projects have not been tested against the criterion *[sic]* outlined in the AusLink White Paper.

**6.31** At the time each of the projects had been announced, there were no guidelines or documented internal procedures in place in relation to the yet-to-be-commenced Strategic Regional Program (as discussed, prior to the election, the department had been working towards developing guidelines to govern the conduct of a competitive application round by September 2004). In light of the fact that a number of election commitments had been announced relating to the funding of projects through the Strategic Regional Program, *Interim Program Guidelines* were developed soon after the then Government was returned. Those Guidelines were applied in the assessment of projects that had been the subject of 2004 election commitments

## Information obtained to inform assessments

**6.32** In regard to obtaining information in relation to proposed projects, the Interim Guidelines stated that the Minister may invite the submission of a PPR from identified project proponents for identified projects. Following the election, proponents of election commitment projects were advised as follows by the department:

On behalf of the Australian Government I confirm the commitment of *[amount and project description]*.

To assist in project delivery and administration I enclose a copy of the Program Administrative Guidelines. The Guidelines detail administrative arrangements including Project Proposal Report (PPR), reporting, payment and publicity arrangements.

The Australian Government will require a Project Proposal Report (PPR) from the Council to enable assessment of the project's technical robustness. While there is no pre-determined format for PPRs, the attached Guidelines provide direction on the areas that need to be addressed in some detail. On receipt of PPRs the Department will work with Council to develop these proposals to approval level.

**6.33** The then Minister had earlier written to State Government Ministers in New South Wales, Victoria, Queensland, Western Australia, Tasmania and the Northern Territory confirming the Australian Government funding for relevant 2004 election commitment projects, seeking clarification of State Government funding contributions, seeking PPRs and enclosing the Interim Program Guidelines.

**6.34** There were inconsistencies in the extent and quality of information provided by project proponents. However, there were no documented procedures in place that required missing or additional information to be obtained so as to ensure the department was sufficiently informed of the key parameters for each project.

## **Assessment process**

**6.35** The Interim Program Guidelines stated that:

...the Department will provide advice to the Minister on the technical robustness of projects, and appropriate design to ensure value for money.

**6.36** Consistent with this, stages 3, 4 and 5 of the process map included in the Interim Program Guidelines were as follows:

3. DOTARS assess PPR and liaises with proponent to ensure it (a) is technically robust; (b) provides value for money for the Commonwealth.

4. DOTARS provides advice to Minister.

5. Minister decides on approvals. *[emphasis as per original]*

**6.37** However, the Interim Guidelines did not identify the criteria against which project proposals would be assessed in terms of their technical robustness and value for money. There were also no internal procedures developed to guide this process. As a result, practices varied between assessors.

**6.38** In addition to the Interim Program Guidelines, the department prepared a proforma Ministerial briefing to be used in obtaining approval of funding for the announced election commitments. The proforma included the following standard text:

### **Technical/Engineering Issues:**

The Department has undertaken a technical assessment of the project. We are satisfied, on the information provided, that the project is technically robust and represents value for money. The detailed engineering assessment check list is attached.



...

**Legislative Authority:**

Pursuant to Section 53 of the *AusLink (National Land Transport) Act 2005* (the Act), you have the power to approve projects if you are satisfied that the project is eligible for approval under Section 54 and if you consider that it is appropriate to approve the project under Section 55.

We consider the project meets the requirements of both sections of the Act.

...

**Recommendation:**

That you approve funding of [insert AMOUNT] to [insert PROPONENT] for [insert PROJECT] under the AusLink Strategic Regional Program, as per Section 53 of the *AusLink (National Land Transport) Act 2005*, and sign the attached project approval instrument, [Id No.], as determined by Section 57 of the Act.

We will advise the proponent of your decision regarding this approval and sign the Funding Agreement on behalf of the Australian Government.

**6.39** Accordingly, neither the proforma nor the department's procedures contemplated the possibility that the department's technical assessment might not support approval of funding for the project, the approval of a lesser amount of funding or that there may be merit in conditions being applied to the funding (in addition to any announced as part of the election commitment) in order to mitigate identified risks.

**6.40** For some projects, significant delays occurred between the department completing its technical assessment (including assessing the adequacy of the project budget to complete the proposed scope of works) and formal advice being put to the then Minister recommending that funding be approved. This meant that the Minister was not provided with an up-to-date technical assessment to inform his decision making. For example, the technical assessment of the Port Sorrell Main Road project proposal was completed on 28 October 2005, but was not provided to the then Minister until 31 March 2006, a delay of five months. Similarly:

- the technical assessment of the MR 301—Seaham Road Reconstruction from Jarvie Close to Wighton Street project (\$2 million in Program funding) was completed on 24 August 2005, some 11 months prior to the brief to the then Minister recommending that funding be approved (dated 27 July 2006, with the technical assessment attached); and

- the technical assessment of the Lakes Way Reconstruction between Sugar Creek Road and Minnow Street, Bungwahl Village project (\$2 million in Program funding) was completed on 26 September 2005, eleven months before it was provided to the then Minister on 28 August 2005 as part of a package of material recommending that funding be approved.

**6.41** In each of these instances, the proforma wording that the proposal ‘has been assessed as being technically robust and as providing value for money in accordance with the Interim Program Guidelines’ was included as part of the advice to the then Minister recommending that he approve funding. In support of this statement, each brief referred the then Minister to the attached one page technical assessment, but without drawing the then Minister’s attention to the dated nature of the technical assessment.

**6.42** There were no instances where the technical assessment recommended that Program funding not be approved, or that approval be deferred pending the confirmation of project parameters. This was the case notwithstanding the significant uncertainties concerning the expected cost, likely delivery timeframe and scope of works for some projects. For example, the assessment of the proposal from Great Lakes Council for the Lakes Way Reconstruction between Sugar Creek Road and Minnow Street, Bungwahl Village project concluded that the project was technically robust and represented value for money, but also included the following in relation to the project’s technical robustness:

Great Lakes Council has carried out a route development study, traffic and accident analysis, economic analysis (BCR) and a brief analysis of tourism in the area. The rehabilitation work is expected to improve road safety and travelling condition on the route. The Council has carried out survey and preliminary design for the proposed section. **Details of cost components are not given and the estimate has a 10 per cent contingency which is considered low.** BCR ranges between 2.5 and 3.7. *[ANAO emphasis]*

**6.43** Similarly, on 27 March 2006, in recommending that he approve funding for the South Bateman’s Bay Bypass project involving \$10 million in Program funds towards a total project cost of ‘approximately’ \$17 million, the department advised the then Minister that:

A proposal submitted by the Eurobodalla Shire Council has been assessed as being technically robust and as providing value for money in accordance with the Interim Program Guidelines that were approved by you on 24 March 2005.

This assessment has been designed to ensure transparency and accountability in the approval process for this project.

**6.44** However, there remained a lack of clarity concerning key parameters of the project. In particular, the project was at an early planning stage such that designs had not been prepared; construction timeframes had not been established; and a robust cost estimate had not yet been prepared. This was implicitly recognised in the advice to the then Minister which stated that:

The project is currently in its planning stage. As at January 2006, Council engaged the services of several consultants for preliminary environmental, design and project planning studies and input. Council expects to engage a consultant in late January<sup>260</sup> to undertake the Project Management role for Route Section 1 (generally referred to as the Surf Beach Bypass) of the project. This indicates likely subsequent construction commencement for Route Section 1 is early to mid 2006-2007.

Once the concept design for the intersection with the Princess Highway is determined, likely timing for this is May 2006, Council will progress to the Project Management phase for Route Section 2. Construction for Route Section 2 (generally referred to as the 'Link Road') is likely to commence in April 2007.

**6.45** However, the department did not qualify its recommendation that funding be approved in full at that time.

### **Robustness of assessment processes reflected in project results**

**6.46** Analysis of the progress achieved in relation to each of the 21 approved 2004 election commitment projects shows that there have been long delays in the implementation of a significant proportion of the projects, together with increases in the cost of some of the projects and/or reductions in the scope of the works being undertaken. As a result, the 2004 election commitment projects did not result in the envisaged acceleration of the implementation of the Program (see paragraphs 3.7 and 6.18).

**6.47** In addition, for a number of the 2004 election commitments, a condition of the announced grant was that the relevant State Government would also

---

<sup>260</sup> Whilst the department's advice was dated 27 March 2006, it did not advise whether Council had actually engaged this consultant in late January 2006 as had been expected.

make a financial contribution to the project.<sup>261</sup> In some instances, the State Government had already, or subsequently, agreed to make a commitment to the project. In general, where this was not the case, the election commitment funding was provided for a project with a reduced scope.

### *Reductions in project scope*

**6.48** Further reductions in scope occurred as projects proceeded. For example, one of the 2004 election commitments was for funding of \$2.5 million toward the cost of Wyong Shire Council's Watanobbi to Warnervale Link Road project. The department's 23 September 2005 technical assessment of the PPR submitted by Council for that project concluded in respect to the project's technical robustness as follows:

The Council has completed a concept design and carried out an Environmental Impact Statement (EIS). The EIS formed part of the Council's development application. Cost estimate appears to have been carried out on concept designs with 10 per cent contingency which is considered to be low for a concept design.<sup>262</sup> The Council has proposed to carry out a detailed design and the costs could rise when the design is refined to take into account additional geotechnical information and environmental considerations. The Council has not carried out a benefit cost analysis for the project but considers that the project is 'warranted'. However since it is an Australian Government commitment, the funding approval should be capped to guard against possible cost escalation.

**6.49** On 27 March 2006, the department advised the then Minister that:

a proposal submitted by Wyong Shire Council had been assessed as being technically robust and as providing value for money in accordance with the Interim Program Guidelines that were approved by you on 24 March 2005.

---

<sup>261</sup> Where the election commitment announcement had been made conditional upon the provision of a State Government contribution to the project, letters from the department following the election confirming the commitment advised the relevant Council that the then Minister had also written to the relevant State Minister for Roads on all commitments in that State that were to be funded under the Strategic Regional Program and that: 'the Minister also raised with [*the State Minister*] the issue of a [*State*] Government contribution to this project—a condition of grant under the AusLink Strategic Regional Program.' Similarly, earlier correspondence from the then Minister to State Ministers had 'indicated in the attachment where matching State Government funding is a condition of funding.'

<sup>262</sup> There was an important error in this assessment in that the PPR specifically stated that the estimate of \$16 million included no contingency, rather than a 10 per cent contingency referred to by the department as being low for a concept design.

**6.50** The Minister was provided with the department's technical assessment of the project (dated 23 September 2005, six months earlier). The then Minister was further advised that:

- the project would involve construction of a 3.1 kilometre link road;
- 'the total cost of the project is expected to be approximately \$16 million' with the Australian Government's contribution 'capped at \$2.5 million'; and
- 'the bulk of the construction is expected to occur in 2006-07, with the remainder in 2007-08'.

**6.51** In the 2006 application round, Wyong Shire Council applied for a further \$3 million in Program funding towards this project (with a stated project cost estimate of \$12 million, \$4 million less than the \$16 million advised to then Minister by the department one month earlier in respect to the election commitment funding for the same project). As discussed at paragraphs 5.97 to 5.100, the additional \$3 million in funding was not approved in the 2006 funding round, with the departmental assessment rating the application *Low* against the Program guidelines at the Initial Review stage, such that the application did not progress to a Detailed Assessment and was not considered for funding. However, the additional funding was subsequently approved by the then Minister in the 2007 Budget round.

**6.52** Due to uncertainties about the scope, timeframe and cost of the project, a Funding Agreement for the 2004 election commitment component of the Strategic Regional funding for this project was not signed until 23 May 2007, one week after the project was offered the further \$3 million as part of the 2007 Budget round. After receiving the offer of the additional funding (which it was required to accept by 21 June 2007), Council advised the department that the design parameters for the project had changed and the total project cost estimate was now \$25.5 million, rather than \$12 million identified in its May 2006 application. The then Minister agreed to a departmental recommendation that the project description and estimated cost be changed.

**6.53** The Project Approval Instrument for the additional \$3 million approved in the 2007 Budget round stated that the project would be delivered in two stages, with a total cost of \$25.5 million. However, following substantial further cost increases and an inability by Council to source the funding necessary to complete the project, this Instrument was varied in April 2009 as follows:

The project has been reduced from the construction of a new road of approximately 3.1 kilometres to a project that delivers only the first stage of the original project...

**6.54** Accordingly, whilst in September 2005 the department had assessed as technically robust a project to construct a 3.1 kilometre link road for a total cost of \$16 million (with an Australian Government contribution of \$2.5 million), as of April 2009 the project had been reduced to construction of an 800 metre section of road, involving a total Australian Government contribution of \$5.5 million. Further in these respects, a November 2009 report to Wyong Shire Council stated that the estimated cost for Stage 1 was \$12.26 million, with an estimate (in 2009 dollars) of \$30 million for Stage 2. In terms of the timing for Stage 2, the report stated as follows:

...the southern section of the Link Road will be required in or around 2023-2024 and that there will be sufficient funds available at that time to bankroll the project, subject to the sale of the [Council owned] 'education land', Section 94 [developer contribution] income and expenditure over the next 15 years and a significant contribution from the RTA of between \$2.4 million—\$10.5 million.

#### Main Road 301 election commitment

**6.55** Another example of an election commitment project assessed as being 'technically robust and providing value for money' that later had its scope significantly reduced was the commitment to improve Main Road 301 in Dungog Shire. By way of background, on 1 October 2004, the Member for Patterson had announced that he had secured \$10 million in road funding for key regional projects in his electorate broken down into three shires:

- \$2 million for the Lakes Way (Great Lakes Shire);
- \$2 million for Main Road 301, from Raymond Terrace to Glen Oak (Port Stephens Shire); and
- \$6 million for Main Road 301, Clarence Town to Dungog and Main Road 101, Dungog Road (Dungog Shire).

**6.56** In Audit Report No. 31 2005-06, ANAO noted that, consistent with the Administrative Guidelines for the initial R2R program (which stated that 'Councils are urged to cooperate to enable larger projects to be implemented on key interregional links'), a Route Development Study was funded by Port

Stephens Council using its R2R allocation.<sup>263</sup> On this project, Council advised ANAO in August 2005 that:

When the Federal Government announced that there would be a strategic component within the new Roads to Recovery program, Port Stephens Council decided to be pro-active in order to attract some of these new funds. We approached Dungog Shire Council and came to an agreement with them to carry out a combined Route Development Study of Seaham Road and Clarence Town Road between Raymond Terrace (in Port Stephens) and Clarence Town (in Dungog).<sup>264</sup>

**6.57** The April 2005 Route Development Study report stated that, through a road safety audit and community consultation process, 22 ‘problem’ sites had been identified relating to issues such as visibility, pavement condition, narrow lanes and speed. The consultants also developed 16 treatment options with a total estimated cost of \$16 million (ten of the treatment options were in Port Stephens Shire, five were in Dungog Shire and one was located on the boundary between the two). The final ranking of upgrade priorities was reported as being determined with consideration of the safety risk rating, benefit cost ratio, community feedback and non quantifiable factors (such as environmental impact, social benefit and land use impacts).

**6.58** The Member for Paterson’s October 2004 announcement had stated that, as the roads were a State Government responsibility, there was a requirement for matching dollar for dollar funding from the State Government. The April 2005 report of the Route Development Study stated that the study was:

an essential step in obtaining the matching State Government funding, and thereby securing the Federal government funding for the proposed improvements to regional road 301.

**6.59** However, the State Government declined the request that it provide matching funding for the road projects announced by the Member for Paterson on 1 October 2004. In February 2006, each of the three shires was advised that:

- the Australian Government funding would still be provided notwithstanding that it had been announced as conditional on matching State Government funding;

<sup>263</sup> ANAO Audit Report No. 31 2005-06, op. cit., p. 77.

<sup>264</sup> *ibid.*

- as the funding available under the program was limited, the Australian Government contribution could not be increased to offset the absence of any State Government funding; and
- the department would liaise with each Council to seek advice on the specific projects to be funded.

**6.60** For Port Stephens Council, the result was that, of the 11 priority projects identified in the Route Development Study with a total estimated cost of \$10.96 million, Strategic Regional Program funding of \$2 million was approved for one project (the highest priority project). This project was to reconstruct Seaham Road from Jarvie Close to Wighton Street, with an off-road cycleway to be constructed next to the new road. The Route Development Study had estimated that this project would cost \$1.5 million. The PPR submitted to the department by Port Stephens Council in May 2005 provided a preliminary cost estimate of \$1.98 million, including contingencies of 10 per cent (\$180 000).

**6.61** In July 2006, the department advised the then Minister for Local Government, Territories and Roads that ‘the total cost of the project is approximately \$2 million’ and recommended that he approve the project to a limit of \$2 million.<sup>265</sup> The project was approved by the then Minister. Construction work was undertaken during 2007, with the reconstructed road being opened to traffic in November 2007. The final reported cost of the project was \$2 115 916.

**6.62** In relation to the election commitment of \$6 million for works on Main Road 301 and Main Road 101, Dungog Shire Council originally proposed to undertake 21 projects at a cost of \$12.5 million, based on matching funding being provided by the State Government. This was subsequently increased to 27 projects at an estimated cost of \$14 million, again based on State funding being provided. After being advised that State Government funding would not be provided, Dungog Shire Council proposed to undertake 14 projects with the Strategic Regional Program funding of \$6 million.

**6.63** The Project Approval Instrument signed by the then Minister on 31 August 2006 for the election commitment funding of \$6 million described the works as 14 projects situated at various locations with the majority of the

---

<sup>265</sup> In effect, this meant that the project contingency had been increased to 11 per cent (\$200 000).



work to involve widening and rehabilitation totalling approximately 18 kilometres of upgrading. In respect to the scope of works being reduced from 27 projects with an estimated cost of \$14 million, Council subsequently advised the department in September 2008 that:

It should be noted that whilst the \$6 million in grant funds has been gratefully received and has made significant inroads into rehabilitation of the road network that would not otherwise have occurred, the funding is less than half of the estimated \$14 million of funds determined to be required at the time to bring this section of the network up to an adequate standard.

**6.64** Of particular note was that Council no longer proposed to construct any overtaking lanes (eight such projects had been included in the 27 projects) and no longer proposed to replace two old timber bridges. Figure 6.1 shows one section of the road that had originally been proposed to be reconstructed and a section of the road where an overtaking lane was to have been reconstructed.

**Figure 6.1**

**Main Road 301 between Clarence Town and Dungog and Main Road 101 Upgrade, Dungog Shire Council, NSW**



Source: ANAO site visit photos, October 2009.

**6.65** Further reductions in the amount of work to be undertaken occurred during the delivery stage of this project. Specifically, soon after funding was approved, it became evident that the approved scope of works was unable to be delivered within the Program funding or in accordance with the expected timeframe.<sup>266</sup> This result does not reflect well upon the robustness of the

<sup>266</sup> Specifically, the first four projects were to have been completed by 30 June 2007 but, in its progress report to the department for the quarter ending 31 March 2007, Council disclosed that tenders for these (and other) works had come in well above the project budget which had led Council to propose scope changes to reduce sub-pavement thickness and the length of works so as to lower costs.

department's assessment practices.<sup>267</sup> As a result, in June 2008, Council advised both the department and the Minister for Infrastructure, Transport, Regional Development and Local Government that:

Of the fourteen sub-projects identified for the [*Australian Government*] funding, only ten will be able to be completed within the funding limits [*of \$6 million*]. The following issues have been identified as the primary causes of the increased expenditures:

- i. Open tender—the majority of the sub-projects have been put to open tender with tender prices being well in excess of project estimates<sup>268</sup>; and
- ii. Increased costs—the spiralling price of fuel has had a marked increase in the cost of construction materials, transport, machinery operation and bitumen sealing costs.

Unfortunately, Council is not in a financially viable position to meet cost increases in the delivery of all 14 sub-projects. Therefore, under Section 4 of the Funding Agreement, Council hereby formally advises that we will be requesting an amendment to the agreement for one of the following:

- i. Increase in funding—To complete all fourteen sub-projects, Council would require increased funding of \$2.89 million. This will provide sufficient funds to undertake the remaining four projects which will have significant impact on the condition of these roads and the comfort and safety of the travelling public; or
- ii. Decrease scope of project—Council would request a decrease in the number of sub-projects from fourteen to ten.

<sup>267</sup> Specifically, in August 2006, when recommending that \$6 million in Program funding be approved for the package of 14 projects, the department had advised the then Minister that this proposal: 'has been assessed as being technically robust and as providing value for money in accordance with the Interim Program Guidelines that were approved by you on 24 March 2005.' In relation to 'value for money', the technical assessment simply advised: 'The maintenance and rehabilitation work is expected to improve travelling and road safety conditions for all traffic. It is likely to improve access to local areas.' The capacity to complete the proposed works within the available funding was not considered.

<sup>268</sup> Further advice from Council, in September 2008, was that an increased scope of works following more detailed survey, design and geotechnical work after the Program funding was approved had also played a role in the increased costs. Specifically, Council advised the department that: 'Original project estimates were undertaken assuming Council was to undertake the works 'in-house' with estimates being based on typical costs for the area of work involved. Subsequent to the AusLink Grant being awarded, further detailed survey, design and geotechnical works were undertaken which resulted in an increased scope of works to meet both geometric and geological design standards. A combination of the increased scope of works and the open tender process has resulted in project costs being between 25 per cent and 125 per cent greater than project estimates'.

**6.66** It took a considerable amount of time for the department to assess Council's June 2008 request (with further information being provided by Council in September 2008). In March 2009, the department recommended to the Minister that he agree to a variation in scope so as to reduce the number of projects from 14 to 10. The department advised the Minister that this course of action was recommended because:

- no additional Program funds were available and that, even if they were, it would set an undesirable precedent to offer additional funds to complete the project; and
- the original project objectives of pavement rehabilitation and road realignment would still be met on the 10 sections of road.

**6.67** The scope reduction was approved on 10 March 2009 and, also on that date, the Minister varied the Project Approval Instrument to reflect the reduced number of projects to be delivered. On 27 March 2009, the department varied the Funding Agreement to reflect the reduced scope, and to extend the project period from 31 March 2009 to 30 June 2009 and the date by which the last five projects were to be completed from 31 March 2009 to 30 June 2009.

**6.68** In addition to the approved reduction in the number of projects delivered, there was also an unapproved reduction in the scope of works at one location. Specifically, one project was to involve widening and rehabilitating 5.36 kilometres of road from the township of Clarence Town to the shire boundary with Port Stephens Council. Plans of the works provided to ANAO by Dungog Shire Council, and ANAO's October 2009 site inspection, identified that the actual works were undertaken in two sections totalling 2.08 kilometres, with no work being undertaken on the remainder of the road, as follows:

- realignment and reconstruction was undertaken of two curves over 1.3 kilometres on the departure from Clarence Town (one of which is shown in the first photo in Figure 6.2);
- realignment and reconstruction was undertaken of a further curve on the boundary between Dungog Shire Council and Port Stephens Shire Council, with work occurring over some 780 metres of road (the second photo in Figure 6.2); and
- no work has been undertaken on the remainder of the road between these two lengths (an example of this section is shown in the third photo in Figure 6.2).

**Figure 6.2**

**Main Road 301 between Clarence Town and Dungog and Main Road 101 Upgrade, Dungog Shire Council, NSW—unapproved scope reduction**



Source: ANAO site visit photos, October 2009.

## Assessment of 2007 election commitments

**6.69** In contrast to the approach taken following the 2004 election, there was a significant delay following the 2007 election in the formalisation of documented procedures to guide the assessment of projects proposed for funding under Part 6 of the land transport legislation, including projects that had been the subject of an election commitment announced in the 2007 election. This also contrasted with the approach taken by the department in relation to the Better Regions Program<sup>269</sup> which was to be the vehicle for funding a package of 2007 election commitments relating to regional grants. In that case, in light of its experience with the Regional Partnerships Program (examined in Audit Report No.14 2007-08), the department developed Guidelines and prepared a Procedures Manual for the Better Regions Program soon after the 2007 election.<sup>270</sup>

**6.70** As noted at paragraph 2.84, in July 2009, general Internal Guidelines and Notes on Administration were issued for administering projects (including residual Strategic Regional Program projects) funded under Part 6 of the Nation Building Act where proponents are LGAs. Four projects relating to 2007 election commitments where the funding recipient is an LGA were approved for funding between the 2007 election and June 2009, prior to the issuing of the Internal Guidelines in July 2009.

### Information obtained to inform assessments

**6.71** Unlike the letters used for the 2004 election commitments, letters sent to relevant proponents by the department in relation to 2007 election commitments did not 'confirm' the election commitment, but rather stated that:

This letter outlines a number of administrative issues which need to be addressed to enable funds to be made available to your project in the

---

<sup>269</sup> The Better Regions Program is being examined in a current ANAO performance audit.

<sup>270</sup> The published Guidelines for that Program stipulate the information proponents must provide, and advised that, where all supporting documentation was not provided by 1 February 2009, the reasons for any delays would be assessed and the likelihood of these projects proceeding would be considered by the Government. The Guidelines were supported by a Procedures Manual, including a Documentation Compliance Checklist, with the associated procedures requiring that the department seek from the proponent any required information that was not provided. The Procedures Manual also incorporated guidance on when and how officials should seek additional information from proponents so as to inform the analysis of the project.

Australian Government's land transport infrastructure program for the five year period 2009 to 2014.

**6.72** Whilst this approach was an improvement over that adopted for the 2004 election commitments, there would be benefit in any future circumstances from the department:

- advising project proponents that the Commonwealth's statutory financial framework requires that any decision by a Minister or authorised official to approve the expenditure of public money to satisfy an election commitment following an election must be undertaken in a manner that considers whether the proposed expenditure represents efficient and effective use of public money; and
- project proposals that are not assessed as representing efficient and effective use of public money are unable to be approved for funding and, in this respect, the provision of a comprehensive PPR that clearly demonstrates the merits of the project is necessary if the proponent wishes to have funding approved for the project.

**6.73** These enhancements would be consistent with the comments from Finance to the department with respect to the approach adopted in relation to the Better Regions Program (see paragraph 6.4).

**6.74** An enhanced approach was also adopted following the 2007 election to advising project proponents as to the expected content of a PPR. Specifically, the department advised proponents that:

To enable consideration of the project, the Department of Infrastructure, Transport, Regional Development and Local Government (the Department) requires the Council to provide project details in the form of a Project Proposal Report (PPR) in the format outlined at [Attachment A](#).

**6.75** The PPR format attached to the departmental correspondence to Councils required project details that were similar to, and in some instances greater than, that required to be provided by applicants to the 2006 application round. The information required included:

- information on the project including its name and the precise location(s) of the project;
- a detailed description of the work to be undertaken (project scope, including physical project limitations, and how this would address transport infrastructure needs) and, if available, technical designs, maps and photographs;

- a description of the anticipated merits and benefits of the completed project, including operational efficiency, safety, community access and social significance;
- details of any project partners and how the project partners are/will be involved in the project, together with any partner funding contributions including written evidence of these commitments to the project;
- the current status of the project as well as the proposed date of commencement/completion of construction and identified milestone dates of project phases;
- the total estimated break-down costs of the project and projected cash flows by financial year over the life of the project, including details of partner contributions; and
- advice as to any known risks that may arise to impede the project being completed by the nominated date and, if so, advice on how these risks would be managed.

**6.76** The requirement that LGA project proponents provide the department with a PPR, which the department will assess before advising the Minister, was formalised in the Internal Guidelines issued in July 2009.

*Election commitment projects delivered by a State*

**6.77** In respect to 2007 election commitment projects that were to be delivered by a State road authority, at the time of ANAO's audit of the delivery of projects on the AusLink National Network, the department advised ANAO that 2007 election commitments were being progressed as follows:

- Ministerial announcements concerning projects made in the 2008–09 Budget reflected a set of estimates and a statement of the Government's intent to fund the projects. These announcements were a precursor for the provision of information by the States to the department to enable the consideration of the project against relevant legislative requirements;
- project approval would occur at the time the Minister approves a project under the terms of the land transport legislation, at which time significant information was required to have been examined by the department so as to enable the assessment of the project against the



requirements of the land transport legislation and the *Financial Management and Accountability Regulations 1997*; and

- early commencement of a number of election commitment projects had been provided for on the basis of the readiness of the States to commence the projects, and where the potential risk exposure to the Australian Government could be limited. A number of these 'Early Start' projects were still at the development stage and were to be subject to the normal statutory requirements before the department provided advice to the Minister in relation to the necessary statutory approvals.<sup>271</sup>

## Enhanced procedures

**6.78** In addition to requiring more comprehensive information from proponents of 2007 election commitments compared to 2004 election commitments, the documented departmental assessment procedures were also enhanced. Specifically, whereas the assessment of 2004 election commitment projects focused on the 'technical robustness' of the project (with the criteria on which that assessment would be based on not being clearly articulated), the documented procedures for 2007 election commitments required an evaluation checklist to be completed upon receipt of a PPR from the project proponent. The stated purpose of this checklist was to provide a tool to assist project officers during the project assessment process, as well as to enhance consistency of approach in the documentation of the assessment processes.

**6.79** The evaluation checklist included a table to assist project officers in the consideration and conduct of a PPR assessment. Officers undertaking assessments were instructed that their assessment comments were to be 'evidence based and descriptive' and, in addition to the considerations identified in the table, the assessment needed to include information gained through consultation with the project proponent. The documented procedures required that this table, when completed, be used to inform the preparation of a Project Assessment Report, which would accompany a Minute to the Minister seeking his approval and signature on the Project Approval Instrument.

---

<sup>271</sup> ANAO Audit Report No. 29 2008-09, op. cit., pp. 36-37.

**6.80** In addition to systematically addressing analysis of the information required to be included in the PPR, the checklist template required that the assessor address whether the proposal was consistent with the FMA Regulations. It also explicitly contemplated the possibility that the departmental assessment might not recommend that funding be approved. In these respects, the checklist instructed assessors that the summary of their assessment:

... should provide justification for project approval and/or funding (or not) of the project in line with Sections 54, 55 and/or 59 of the *Nation Building Program (National Land Transport) Act 2009* and the requirements of the FMA Regulations 9 and 10. Costs, funding contributions and any key performance indicators, sensitivities, risks and risk mitigation strategies should be flagged. Any need for clarification or further information should be identified and sought from the proponent.

**6.81** A proforma Project Assessment Report was also prepared for departmental use. In addition to the project name, description, scope and background, the Project Assessment Report was to:

- address the requirements of the land transport legislation in relation to whether the project was eligible to be funded (under section 54) and whether it was appropriate for funding to be approved (in terms of section 55);
- include information on the merits and benefits of the project as well as the funding arrangements, technical data, information on risks and contingencies, and key timelines (including project commencement and completion dates); and
- address the requirements of the FMA Regulations, including a departmental assessment as to 'why the project is an efficient and effective use of public money, drawing on the assessments made in the Checklist'.

**6.82** As noted, the documented procedures require that the Project Assessment Report accompany a Minute to the Minister seeking his approval and signature on the Project Approval Instrument. The proforma Minute to the Minister also explicitly addressed the requirements of the Nation Building Act and the FMA Regulations. In this latter respect, the proforma Minute includes advice to the Minister on the requirements of the FMA Regulations, together with a departmental assessment as to whether the project meets the

requirements of the financial framework. Specifically, the proforma Minute includes the following:

By approving the recommendations of this Minute and signing the attached Project Approval Instrument for the *[name of project]*, you will also be indicating that you are satisfied that Regulation 9 requirements of the *Financial Management and Accountability Regulations 1997* have been met, including that giving effect to the spending proposal would be a proper use of Commonwealth resources (within the meaning given by subsection 44(3) of the *Financial Management and Accountability Act 1997*). Section 44(3) defines 'proper use' as the efficient, effective and ethical use that is not inconsistent with the policies of the Commonwealth.

On the basis of our assessment, we consider that it is a proper use of Commonwealth resources because the project will *[describe the project outcomes e.g. deliver X lanes, improve safety etc]* and is considered value for money. We therefore consider that the project meets the requirements of Regulation 9. Further justification against Regulation 9 is provided in Section 13 of the Project Assessment Report at Attachment A.

**6.83** Unfortunately, as noted at paragraph 6.70, the improved procedures documented for the assessment of 2007 election commitment projects were not finalised until July 2009, 21 months after the election. Nevertheless, the procedures requiring the submission of a PPR were in operation from December 2008, when the department commenced corresponding with Councils in relation to non-Early Start<sup>272</sup> Off-Network project election commitments.

## **Robustness and consistency of assessment practices**

**6.84** In some instances, project proponents have had difficulty in meeting the enhanced information and analytical requirements required in order for the department to recommend that funding be approved for an election commitment project. This situation highlighted that a number of the projects were at an immature stage of development such that important aspects of the project were uncertain. For example:

- a PPR for the \$3 million election commitment towards the Goulburn Valley Freight and Logistics Centre (also referred to as the Shepparton

---

<sup>272</sup> Funding of certain projects had been accelerated as 'Early Start Projects' in the context of the 2007-08 Budget, with affected projects being selected on the basis of their readiness for commencement.

Intermodal Terminal) was provided to the department in May 2009, but the assessment of this PPR had yet to be completed at the time of audit. In March 2010, the department advised ANAO that it was still awaiting advice from Council confirming the project's total estimated costs and that funding conditions set by the Victorian Government in relation to its \$2 million contribution to the project had been met. The department advised ANAO that:

Certainty of costs, funding contributions and that any preconditions have been met is required to support certainty of project outcomes in order to protect the Commonwealth's interests and risk exposure. The department is seeking to resolve these issues and/or to have in place an acceptable mitigation strategy prior to seeking project and funding approval under the Act.<sup>273</sup>; and

- a \$450 000 commitment had been made towards the upgrade of the intersection at Sherringham Road and The Northern Road in the electorate of Lindsay. A PPR was provided to the department by Penrith City Council in March 2009. However, in September 2009, the department advised Council that: 'the assessment of your PPR will not be done until a detailed design of the entire project has been completed and signed off by the RTA.'<sup>274</sup>

**6.85** However, there has not been a consistent standard adopted in the analysis of election commitment project PPRs. For example, on 19 December 2008 the department wrote to the City of Wanneroo and the City of Swan in relation to the \$10 million commitment to upgrade and extend Hepburn Avenue (each Council was to receive \$5 million).<sup>275</sup> PPRs were provided by the two Councils as follows:

- the City of Wanneroo's 5 February 2009 PPR outlined that the project would involve upgrading Hepburn Avenue from Bellerive Boulevard to Alexander Drive from a two-lane single carriageway to a four-lane

---

<sup>273</sup> Greater Shepparton City Council had applied in the 2006 application round for \$10 million in Strategic Regional Program funding towards this project (with a total estimated project cost of \$23.7 million). Overall, the project was rated *Low* by the department: 'based on the proponent not being able to provide confirmation of funding from stakeholders for the project, the medium to high engineering risk and barely meeting industry competitiveness, regional significance and access to services and employment.' The project was not approved for funding in either of the 2006 or 2007 funding rounds.

<sup>274</sup> The election commitment to upgrade this intersection had become part of a larger project (funded under the Housing Affordability Fund) to upgrade The Northern Road.

<sup>275</sup> The Coalition had also made \$5 million commitments to each of these two projects.

dual carriageway. With an estimated cost of \$7.66 million (the City of Wanneroo to fund the \$2.66 million funding shortfall), the work was proposed to be undertaken between December 2008 and December 2012 (no significant risks to the project were identified by Council in its PPR); and

- the City of Swan's 27 February 2009 PPR identified that the \$5 million in Australian Government funding would primarily be used for the second stage of a three stage project to extend Hepburn Avenue from Alexander Drive to the intersection of the Tonkin and Reid Highways (Stage 2 being from Beechboro Road North to Marshall Road). At that time, Stage 1 was underway (with an anticipated cost of \$9.4 million) with 'high level' cost estimates of \$5 million for Stage 2 to be completed by the end of 2009 (Council advised that Stage 2 of the project was being designed and that there were no significant risks anticipated to impede the completion of the project).

**6.86** In the 2006 application round, the City of Swan had sought \$10 million in Strategic Regional Program funding toward a \$19.14 million project to extend Hepburn Avenue from Alexander Drive through to the Reid Highway. That application encapsulated Stages 1 and 2, with works to be completed by June 2007. The application had been rated *Low* following the Initial Review stage such that it was not subject to a Detailed Assessment against the published assessment criteria (and was not to be considered for funding). The 2006 departmental assessment had been that the application:

did well in many criteria however there was little regional support documentation, little information on access to services/employment and more importantly the biggest amount of funding (WA Govt) has not been approved.<sup>276</sup>

**6.87** Whilst obtaining PPRs provided better information on this project compared to the approach taken to 2004 election commitments, the departmental scrutiny of the overall project was not sufficiently robust. For example:

---

<sup>276</sup> In this respect, during the assessment process, on 28 June 2006 the State Government had advised the department that: 'The State was unaware that the Hepburn Avenue project was being submitted for Federal funding. Again this project is supported in principle but no commitment has been given at this stage for State funding.'

- during assessment of the PPR for the City of Swan's Hepburn Avenue extension project, Council informed the department that the precise scope of the project was unclear. Specifically, Council advised that:

when we have refined costs a bit more we may look at trying to get a dual carriageway the whole way of Stage 2. By the time we have done the dualling at the intersections, it may be cost effective to dual the section in between. However, we can't guarantee that we can fit it in the budget as detailed design and quantities are still being finalised.

The departmental assessment of the PPR subsequently provided to the Minister did not draw attention to this situation, or inform the Minister that the cost estimate of \$5 million was based on preliminary design work; and

- in April 2009, also during the assessment of the City of Swan's PPR, Main Roads WA advised the department that it had no plans to construct Stage 3 of the Hepburn Avenue extension.<sup>277</sup> This was significant because the full benefits of the project are unable to be realised unless all three stages are delivered (as was evident from the project business case provided with the 2006 application), and the key reason leading to the *Low* rating of the 2006 application had been the absence of a confirmed State Government commitment to the Hepburn Avenue extension. The departmental assessment of the PPR provided to the Minister did not incorporate the Main Roads WA advice but, rather, provided unqualified advice stating that:

When completed, this project will:

- (a) furnish regional industry with easier freight access to/from industrial areas, such as Malaga, Kewdale and Wangarra, to compete in inter-regional trade and commerce;
- (b) provide a safer driving environment for road users; reduce traffic congestion on Marshall Road and Beach Road; improve accessibility and reduce travel times; and
- (c) improve direct access for the community to local services and employment at the Malaga Industrial area.

---

<sup>277</sup> The State Government was part-funding Stage 1 of the overall extension project.

**6.88** Funding of \$5 million for the City of Swan's PPR was approved by the Minister on 2 September 2009 but, as at March 2010, the department had yet to enter into a Funding Agreement with the City of Swan. Similarly, funding of \$5 million for the City of Wanneroo's Hepburn Avenue Upgrade project was approved by the Minister on 2 September 2009, but a Funding Agreement for that project had also not been signed as of March 2010. In both cases, the department advised that the draft Funding Agreements were still under negotiation.

**6.89** Another example where the improved procedures for obtaining and analysing election commitment projects were not supported by sufficiently robust departmental analysis and advice involved the Reid Highway/Alexander Drive Interchange Project. As outlined in paragraphs 5.67 to 5.73, the City of Stirling had applied to the 2006 application round for \$10 million towards the then estimated \$24 million cost of constructing an interchange at the intersection of the Reid Highway and Alexander Drive. The project was rated *Low* by the department at the Initial Review stage, did not progress to Detailed Assessment and was not approved for funding in either of the 2006 or 2007 funding rounds. The 2006 departmental assessment of the Reid Highway/Alexander Driver Interchange project had concluded that:

Funding from WA Govt has not been confirmed. Cost estimates, project schedule, detailed planning and design information were insufficient and timeline was not delivery credible. Both these risks are high. Additionally, other criterion [*sic*] was rated very low and did not support a higher rating than Low.

**6.90** During the 2007 election campaign, the Labor candidate for the electorate of Stirling sent letters to residents in the electorate stating that, if elected, the Labor Party would match the State Government's commitment to build an overpass at the intersection of the Reid Highway and Alexander Drive.<sup>278</sup> Following the election, the department obtained a 'Project Concept' outline from Main Roads WA. Compared to the \$24 million total project cost estimate included with the 2006 application, this document outlined that:

Planning and design activities will be undertaken in 2008-09 (with State funds) to enable an early commencement of construction (in 2009-10).

---

<sup>278</sup> Similarly, a Media Statement issued by the then Federal Opposition Leader and then Federal Opposition Transport Spokesman on 8 August 2007 included a commitment to: '\$10 million to grade separate the intersection of the Reid Highway and Alexander Avenue'.

Based on recent trends reflected in various construction indicators, Main Roads has revised the projected rates of cost escalation which has resulted in an increase in the estimated outturn cost of the projects.

**A preliminary review of the Project estimate and revised cost escalation rates has resulted in a revised estimate indicating an outturn cost of \$93 million based on construction between 2009-10 and 2010-11.**

The plans and estimates are preliminary and require review to determine the extent of accommodation works required in addition to the road works.  
*[emphasis as per original]*

**6.91** The project has subsequently been included in the Western Australia Projects being funded under the Nation Building Program 2008-09 to 2013-14, but with a total outturn estimate of \$72 million. In addition to no documented evidence of the department scrutinising the rigour of the \$72 million revised estimate (compared to the \$93 million included in the Project Concept), there was no documented analysis of the project in terms of the shortcomings identified in respect to the 2006 application that had been rated low quality.

**6.92** The above examples highlight that the benefit of the improved documented procedures for analysing election commitment projects will not be realised if these procedures are not consistently implemented.

---



Ian McPhee  
Auditor-General

Canberra ACT  
22 April 2010



# Series Titles

---

**ANAO Audit Report No.1 2009–10**

*Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance*

Department of the Treasury

Department of the Prime Minister and Cabinet

**ANAO Report No.2 2009–10**

*Campaign Advertising Review 2008–09*

**ANAO Audit Report No.3 2009–10**

*Administration of Parliamentarians' Entitlements by the Department of Finance and Deregulation*

**ANAO Audit Report No.4 2009–10**

*The Management and Processing of Annual Leave*

**ANAO Audit Report No.5 2009–10**

*Protection of Residential Aged Care Bonds*

Department of Health and Ageing

**ANAO Audit Report No.6 2009–10**

*Confidentiality in Government Contracts – Senate order for Departmental and Agency Contracts (Calendar Year 2008 Compliance)*

**ANAO Audit Report No.7 2009–10**

*Administration of Grants by the National Health and Medical Research Council*

**ANAO Audit Report No.8 2009–10**

*The Australian Taxation Office's Implementation of the Change Program: a strategic overview*

**ANAO Audit Report No.9 2009–10**

*Airservices Australia's Upper Airspace Management Contracts with the Solomon Islands Government*

Airservices Australia

Department of Infrastructure, Transport, Regional Development and Local Government

**ANAO Audit Report No.10 2009–10**

*Processing of Incoming International Air Passengers*

Australian Customs and Border Protection Service

**ANAO Audit Report No.11 2009–10**

*Garrison Support Services*  
Department of Defence

**ANAO Audit Report No.12 2009–10**

*Administration of Youth Allowance*  
Department of Education, Employment and Workplace Relations  
Centrelink

**ANAO Audit Report No.13 2009–10**

*Major Projects Report 2008–09*  
Defence Materiel Organisation

**ANAO Audit Report No.14 2009–10**

*Agencies' Contract Management*  
Australian Federal Police  
Austrade  
Department of Foreign Affairs and Trade

**ANAO Audit Report No.15 2009–10**

*AusAID's Management of the Expanding Australian Aid Program*  
AusAID

**ANAO Audit Report No.16 2009–10**

*Do Not Call Register*  
Australian Communications and Media Authority

**ANAO Audit Report No.17 2009–10**

*Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2009*

**ANAO Audit Report No.18 2009–10**

*LPG Vehicle Scheme*

**ANAO Audit Report No.19 2009–10**

*Child Support Reforms: Stage One of the Child Support Scheme Reforms and Improving Compliance*

**ANAO Audit Report No.20 2009–10**

*The National Broadband Network Request for Proposal Process*  
Department of Broadband, Communications and the Digital Economy

**ANAO Audit Report No.21 2009–10**

*Administration of the Water Smart Australia Program*  
Department of the Environment, Water, Heritage and the Arts  
National Water Commission

**ANAO Audit Report No.22 2009–10**

*Geoscience Australia*

**ANAO Audit Report No.23 2009–10**

*Illegal Foreign Fishing in Australia's Northern Waters*  
Australian Customs and Border Protection Service

**ANAO Audit Report No.24 2009–10**

*Procurement of Explosive Ordnance for the Australian Defence Force*  
Department of Defence

**ANAO Audit Report No.25 2009–10**

*Security Awareness and Training*

**ANAO Audit Report No.26 2009–10**

*Administration of Climate Change Programs*  
Department of the Environment, Water, Heritage and the Arts  
Department of Climate Change and Energy Efficiency  
Department of Resources, Energy and Tourism

**ANAO Audit Report No.27 2009–10**

*Coordination and Reporting Australia's Climate Change Measures*  
Department of Climate Change and Energy Efficiency  
Department of Innovation, Industry, Science and Research

**ANAO Audit Report No.28 2009–10**

*The Australian Electoral Commission's Preparation for and Conduct of the 2007 Federal General Election*

**ANAO Audit Report No.29 2009–10**

*Attorney-General's Department Arrangements for the National Identity Security Strategy*

# Current Better Practice Guides

---

The following Better Practice Guides are available on the Australian National Audit Office website.

## Innovation in the Public Sector

Enabling Better Performance, Driving New Directions	Dec 2009
SAP ECC 6.0	
Security and Control	June 2009
Preparation of Financial Statements by Public Sector Entities	June 2009
Business Continuity Management	
Building resilience in public sector entities	June 2009
Developing and Managing Internal Budgets	June 2008
Agency Management of Parliamentary Workflow	May 2008
Public Sector Internal Audit	
An Investment in Assurance and Business Improvement	Sep 2007
Fairness and Transparency in Purchasing Decisions	
Probity in Australian Government Procurement	Aug 2007
Administering Regulation	Mar 2007
Developing and Managing Contracts	
Getting the Right Outcome, Paying the Right Price	Feb 2007
Implementation of Programme and Policy Initiatives:	
Making implementation matter	Oct 2006
Legal Services Arrangements in Australian Government Agencies	Aug 2006
Administration of Fringe Benefits Tax	Feb 2006
User-Friendly Forms	
Key Principles and Practices to Effectively Design and Communicate Australian Government Forms	Jan 2006
Public Sector Audit Committees	Feb 2005
Fraud Control in Australian Government Agencies	Aug 2004
Better Practice in Annual Performance Reporting	Apr 2004
Management of Scientific Research and Development Projects in Commonwealth Agencies	Dec 2003

Public Sector Governance	July 2003
Goods and Services Tax (GST) Administration	May 2003
Building Capability—A framework for managing learning and development in the APS	Apr 2003
Administration of Grants	May 2002
Performance Information in Portfolio Budget Statements	May 2002
Some Better Practice Principles for Developing Policy Advice	Nov 2001
Rehabilitation: Managing Return to Work	June 2001
Building a Better Financial Management Framework	Nov 1999
Building Better Financial Management Support	Nov 1999
Commonwealth Agency Energy Management	June 1999
Controlling Performance and Outcomes	Dec 1997
Protective Security Principles (in Audit Report No.21 1997–98)	Dec 1997

