

The Auditor-General
Audit Report No.3 2010–11
Performance Audit

**The Establishment, Implementation and
Administration of the Strategic Projects
Component of the Regional and Local
Community Infrastructure Program**

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

Australian National Audit Office

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of Australia 2010

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Canberra ACT
27 July 2010

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken an independent 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, to the Parliament. The report is titled *The Establishment, Implementation and Administration of the Strategic Projects Component of the Regional and Local Community Infrastructure 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 and title.

Ian McPhee
Auditor-General

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

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Abbreviations and Glossary

Accountability	Involves agencies and decision-makers being able to demonstrate and justify the use of public resources to government, the Parliament and the community.
ANAO	Australian National Audit Office
Approver (or decision-maker)	This is the Minister, Ministers acting collectively (such as Cabinet) or, where relevant, an official with authority to determine whether an application or grant proposal will be funded under a grant program.
Assessment criteria	The criteria against which all eligible, compliant applications are to be assessed in order to determine their merits against the program objectives. In a competitive merit-based selection process, the assessment criteria also provide the means of ranking competing eligible applications in order of priority for approval up to the level of available program funding, so as to maximise the achievement of program objectives.
CGGs	<i>Commonwealth Grant Guidelines-Policies and Principles for Grants Administration</i> , Financial Management Guidance No. 23, issued by the Minister for Finance and Deregulation in July 2009 under FMA Regulation 7A. The purpose of the CGGs is to establish the policy framework and articulate the Government's expectations for all agencies subject to the FMA Act and their officials when performing duties in relation to grants administration. The FMA Regulations require officials to act in accordance with the CGGs, with the CGGs setting out a number of mandatory requirements for both Ministers and officials.
Complete application	A complete application was defined by DITRD LG as one that answered all questions on the application and attached all required documentation needed to demonstrate the viability of the proposed project, such as recent business plans, feasibility studies, detailed project plans and project cost estimates. The requirement for complete application was established to support the economic stimulus objectives of the Program. In particular, it was recognised that projects needed to be sufficiently well developed (as demonstrated through the project application) to enable them to be able to commence and be completed in a relatively short period of time (less than 18 months).
Compliance criteria	Process requirements that must be met in order for an application to be considered for funding. In respect to the Strategic Projects component, the key compliance criteria related to various statements in the program guidelines that incomplete applications would not be considered for funding.
DITRD LG or the department	Department of Infrastructure, Transport, Regional Development and Local Government
Eligibility criteria	Criteria that identify the types of applicants (applicant eligibility criteria) and projects (project eligibility criteria) that are eligible under the program guidelines to apply for funding. The program guidelines for the Strategic Projects component identified those types of applicants that were eligible, the types of projects that were eligible as well as those that were not.
ERC	Expenditure Review Committee of Cabinet
Finance	Department of Finance and Deregulation

FMA Act	<i>Financial Management and Accountability Act 1997</i>
FMA Regulations	<i>Financial Management and Accountability Regulations 1997</i>
Funding Agreement	A legally enforceable agreement setting out the funding terms and conditions under which a grant is provided.
Grant	<p>FMA Regulation 3A(1) defines a <i>grant</i> as an arrangement for the provision of financial assistance by the Commonwealth:</p> <ul style="list-style-type: none"> 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 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 and conditions specified in the arrangement. <p>FMA Regulation 3A(2) stipulates the financial arrangements that taken not to be grants for the purposes of the FMA Regulations and the CCGs.</p>
Grants administration	<p>The CCGs stipulate that the <i>grants administration</i> function encompasses the whole process of granting activity and includes:</p> <ul style="list-style-type: none"> • planning and design; • selection and decision-making; • the making of a grant; • the management of funding agreements; • reporting; and • review and evaluation.
Key principles for grants administration	<p>The CCGs sets out the seven key principles of grants administration established by the Australian Government, as follows:</p> <ol style="list-style-type: none"> 1. Robust planning and design. 2. An outcomes orientation. 3. Proportionality. 4. Collaboration and partnership. 5. Governance and accountability. 6. Probity and transparency. 7. Achieving value with public money.
Minister	Minister for Infrastructure, Transport, Regional Development and Local Government
PM&C	Department of the Prime Minister and Cabinet
Program outcomes	The results, impacts or consequences on the Australian community intended by government to arise through implementation of the program.

Selection criteria	<p>Selection criteria fall into two main groups, as follows:</p> <ul style="list-style-type: none"> • threshold criteria are the criteria that an application must satisfy in order to be considered for funding. These are also variously expressed as 'eligibility criteria', 'mandatory criteria', 'compliance criteria' or 'gateway criteria'; and • assessment criteria are the criteria against which all eligible, compliant applications will be assessed in order to determine their merits against the program objectives and, for competitive programs, other competing applications.
SPBC	Strategic Priorities and Budget Committee of Cabinet
Strategic Review	<i>Strategic Review of the Administration of Australian Government Grant Programs</i> , 31 July 2008.
Threshold criteria	The eligibility, compliance and other mandatory (or gateway) criteria identified in program guidelines as threshold requirements that all applications must satisfy in order to be considered for funding.
Transparency	Transparency refers to the preparedness of those involved in grants administration to open an activity and its processes to scrutiny. This involves providing reasons for all key decisions that are taken and the provision of information to government, the Parliament and the community. Transparency provides assurance that grants administration processes undertaken are appropriate and that policy and legislative obligations are being met.
Treasury	Department of the Treasury

Summary and Recommendations

Summary

Introduction

1. The onset of the global financial crisis in 2008 caused a severe loss of confidence, not only in the financial sector, but also in households and businesses around the world. The result was a period of global economic downturn and a prospect of rising unemployment in many countries.
2. In response, many governments around the world have adopted fiscal measures to support employment and economic recovery. Domestically, the Australian Government announced a series of stimulus measures in late 2008 and early 2009. Included in these was the Regional and Local Community Infrastructure Program (RLCIP).
3. The RLCIP is administered by the Department of Infrastructure, Transport, Regional Development and Local Government (DITRD LG). Its establishment had been announced in the May 2008 Budget, to replace from 2009-10 the Regional Partnerships Program, which had been subject to a report by the ANAO in November 2007.¹
4. Also in May 2008, the Minister for Infrastructure, Transport, Regional Development and Local Government asked the House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government (the House Standing Committee) to investigate and report on options for the new regional funding program. On 5 November 2008, the House Standing Committee tabled an Interim Report on its inquiry into a new regional development funding program. The Committee's decision to issue an interim report stemmed from the Government accelerating its nation building agenda in response to the global financial crisis. The Committee's intention was for the recommendations of the Interim Report to help inform government

¹ ANAO Audit Report No. 14 2007–08, *Performance Audit of the Regional Partnerships Program*, Canberra, 15 November 2007.

decision-making as the Government considered the manner in which it would distribute funds for regional infrastructure projects.²

5. On 12 November 2008, one week after the House Standing Committee tabled its Interim Report, the Government decided to establish a \$300 million RLCIP comprising:

- \$250 million allocated amongst all councils (referred to as the Council Allocation component); and
- \$50 million to fund high priority infrastructure projects with a value of greater than \$2 million that would be selected through a competitive, application-based process (referred to as the Strategic Projects component).

6. The Strategic Projects component is the subject of this audit report. A separate performance audit of the Council Allocation component is also underway with the report expected to be tabled in early 2011.

Conduct of the 2009 application round

Initial call for applications

7. The initial call for applications to the first round³ of the Strategic Projects component was made on 21 November 2008, three days after the Program was announced. On that date, the Minister for Infrastructure, Transport, Regional Development and Local Government:

- released the Program Guidelines;
- released the official timetable, which was intended to encourage local councils and shires to identify local projects as soon as possible so as to have funding released promptly;

² House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Funding regional and local community infrastructure: Principles for the development of a regional and local community infrastructure funding program*, Final Report, June 2009, p. 1.

³ In June 2009, the then Prime Minister announced additional funding of \$120 million for the Strategic Projects component of the RLCIP, to be made available through a second competitive process. Subsequently, on 9 October 2009, the Minister for Infrastructure, Transport, Regional Development and Local Government announced that applications for round two of the Strategic Projects component were open and were due by 15 January 2010.

- announced that application forms for the \$50 million Strategic Projects component would be available (on the department's website) later that day for projects seeking a minimum Commonwealth contribution of \$2 million or more; and
- announced that complete applications must reach the department by 23 December 2008.⁴

8. By 23 December 2008, DITRDLG had received 344 applications that sought some \$1.2 billion of Commonwealth funds for projects with an overall value of \$2.9 billion.

Program funding increased from \$50 million to \$550 million

9. In the context of the impact in Australia of the evolving global financial crisis, at its meeting on 28 January 2009, the Strategic Priorities and Budget Committee of Cabinet considered options to provide further economic stimulus through the Infrastructure, Transport, Regional Development and Local Government portfolio. Further discussion occurred after the Committee meeting between the Office of the then Prime Minister and the Office of the Minister for Infrastructure, Transport, Regional Development and Local Government. Subsequently, on 2 February 2009, the then Prime Minister wrote to the Minister for Infrastructure, Transport, Regional Development and Local Government:

- confirming the allocation of an extra \$500 million over two years to the Strategic Projects component of the RLCIP, with \$250 million to be allocated in 2008–09 and \$250 million in 2009–10; and
- reiterating the 28 January 2009 decision that priority was to be given to projects that could proceed quickly and for which co-investment from councils and other partners, such as State and Territory governments, was proposed.

⁴ The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Guidelines Released for \$300 million Regional and Local Community Infrastructure Program*, Media Release, AA180/2008, 21 November 2008.

Applications re-opened

10. On 13 February 2009, the Minister for Infrastructure, Transport, Regional Development and Local Government announced that the Government had secured the passage of the \$42 billion Nation Building and Jobs Plan legislation, which included the additional \$500 million for the Strategic Projects component of the RLCIP. The Minister's announcement also outlined that:

The Government will give local councils and shires the opportunity to submit new or revised applications for the Regional and Local Community Infrastructure Program—Strategic Projects.⁵

11. In the context of the Strategic Projects component having been increased from \$50 million in available funding to \$550 million, the Minister's announcement advised that councils had until 4pm Australian Eastern Daylight Saving Time, Friday 6 March 2009⁶ to submit new or revised applications. It was further announced that the existing Program Guidelines would continue to apply.

12. By the revised closing date, a total of 484 applications were received seeking \$2.05 billion in Commonwealth funding compared with the \$550 million that was available.

Successful applications

13. The decision about which applications were to receive Program funding was made by Cabinet, in a meeting on 22 April 2009. Cabinet agreed to the recommendations of the Minister for Infrastructure, Transport, Regional Development and Local Government that a total of \$549.672 million be approved for 137 projects.⁷ The successful projects were publicly announced

⁵ The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Rudd Government Secures Extra \$500 Million for Local Community Infrastructure—No Thanks to Liberal and National Parties*, Media Release, AA28/2009, 13 February 2009.

⁶ A total of 11 councils affected by bushfires in Victoria and floods in north Queensland and northern NSW were given an extension of time to 20 March 2009 to lodge new or revised applications. The non-disaster affected councils had been advised that steps were being taken to assist the disaster-affected councils.

⁷ The total approved funding was subsequently reduced by \$117 000 to \$549.555 million, following the replacement of one of the approved projects with a different project, based on advice from the Minister for Infrastructure, Transport, Regional Development and Local Government to the then Prime Minister that there had been an error in the list of recommended projects provided to Cabinet.

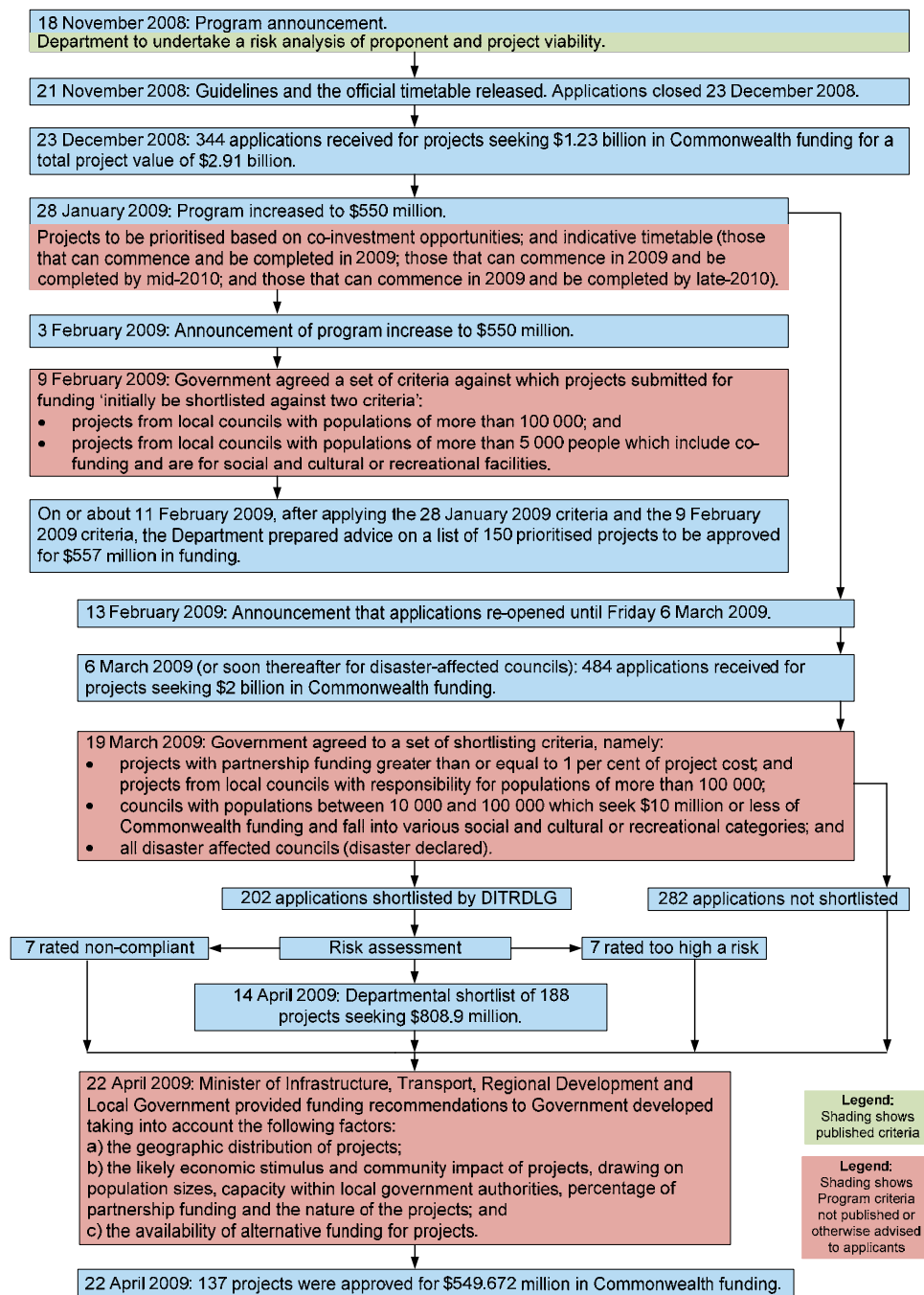
over the course of April and May 2009. Funding Agreements for 136 of the projects were signed during June 2009, with a total of nearly \$230 million in program funds paid before 30 June 2009. The final Funding Agreement was signed in late July 2009.

14. Figure S 1 provides an overview of the application, assessment and funding approval processes for the Strategic Projects component of the RLCIP. In respect to the program context and way in which it was delivered, in June 2010 the department advised ANAO that:

The program was implemented during the global economic crisis and the Government's response to the emerging crisis. Between September 2008 and the 2009 Budget, the Government dealt with an unfolding global and economic crisis which required senior Ministers to re-consider and adjust policy and program settings as the impacts of the crisis became clearer. This included considering projects which would not only provide an immediate economic stimulus but also provide community infrastructure investment for the recovery post 2010–11. The program changed significantly as the Government, through successive consideration of stimulus measures, expanded the program from \$50 million to \$550 million and adapted the timeframes and approach to assessment and delivery of the program.

Figure S 1

Approval process map for the Strategic Projects component



Legislative framework

15. The Strategic Projects component of the RLCIP is a discretionary grants program. 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 Projects component.

16. While not affecting a Minister's right to decide on the allocation of grants, since December 2007, the financial framework applying to grants decision-making has been progressively enhanced. Two of the significant changes made on 14 December 2007 were to require that guidelines for any new grants program be considered by the Expenditure Review Committee of Cabinet; and Ministers were not to make any decisions on grants without first receiving departmental advice on the merits of each grant application relative to the guidelines for the program. These requirements remain in place.

17. In December 2008, prior to the re-opening of applications to the Strategic Projects component, the Government agreed to a range of measures to reform the administration of grants, including the development of an improved framework for grants administration. These decisions were made in response to the 31 July 2008 report of the *Strategic Review of the Administration of Australian Government Grant Programs* (Strategic Review of Grants). The Government's December 2008 decisions have now been reflected in the new policy framework for the administration of grant programs by agencies subject to the FMA Act that took effect from 1 July 2009.

18. Whilst the enhancements to the grants administration framework made in December 2007 applied to the design and implementation of the Strategic Projects component, the changes to the FMA Regulations and introduction of the Commonwealth Grant Guidelines (CGGs) occurred after projects had been approved for funding.

Audit objectives

19. The audit was undertaken under section 18 of the *Auditor-General Act 1997*. The objective of the audit was to assess whether the Strategic Projects

component of the RLCIP has been effectively designed and administered. Amongst other things, the audit examined the design of the Strategic Projects component; the processes by which applications were sought, assessed and successful projects approved for funding; and the extent to which timely economic stimulus has been provided through the funded projects.

Overall audit conclusion

20. The Strategic Projects component of the RLCIP was one of a number of programs introduced by the Australian Government in response to the global financial crisis. Initially announced with funding of \$50 million, this was increased in January 2009 by a further \$500 million so as to increase stimulus spending in local communities as part of the Government's response to the global financial crisis. In addition to the intention of providing timely economic stimulus, the Program is also expected to provide longer term community infrastructure investment by funding additional projects not already underway, or additional stages of projects that were already underway.

Application, assessment and approval of projects

21. The objectives of the RLCIP were to create local jobs and stimulate local economies in the short term and medium term. The Strategic Projects component was intended to contribute to this objective by directing funding towards a limited number of large strategic projects that were ready to proceed. Projects were to be allocated funding on a nationally competitive basis through an application process open to all local councils.

22. Guidelines for the Strategic Projects component were approved by the Government and published soon after the RLCIP was announced. The published guidelines were updated and reissued to reflect key changes in the Strategic Projects component, including the decisions made in January and February 2009 to increase the available funding to \$550 million and to re-open the Strategic Projects component to new or revised applications.

23. The Program Guidelines included a comprehensive suite of criteria addressing applicant and project eligibility, and emphasising that only complete applications would be considered compliant and therefore eligible for funding. In this respect, the Strategic Review of Grants which reported in July 2008 had observed that potential applicants and other stakeholders have a right to expect that program funding decisions will be made in a manner, and

on a basis, consistent with the published program guidelines and selection documentation.⁸ A similar observation had been made by ANAO in the audit report on the predecessor Regional Partnerships program.⁹ An eligibility and compliance checking process was developed by the department but was abandoned part-way through its implementation and was not replaced with an alternative, systematic consideration of eligibility and compliance. As a consequence, rather than ineligible and incomplete applications being excluded from further consideration, all applications received were considered as to whether they should be shortlisted to undergo a risk assessment by the department.

24. A further shortcoming in the administration of the Strategic Projects component was that no version of the program guidelines outlined the assessment criteria that would be used to select the successful applications. At various points, decisions were made to establish criteria to prioritise applications and shortlist those applications that would be further considered for possible funding. The various decisions taken in relation to criteria were indicative of an evolution in thinking about the implementation of the Strategic Projects component, but opportunities to publish the criteria as they were decided upon were not taken. This was notwithstanding that the House Standing Committee had recommended in its November 2008 Interim Report that key assessment criteria should be defined 'in the clearest possible way' and that the department should ensure that 'applicants and departmental staff are aware of these criteria'.¹⁰

25. After examining applications against shortlisting criteria approved by Ministers on 19 March 2009, the department undertook a risk assessment of shortlisted projects. In total, 202 applications were shortlisted for risk assessment, with external accounting firms playing a key role in the conduct of these assessments.¹¹ While the risk assessment results were provided to its

⁸ Mr Peter Grant PSM, *Strategic Review of the Administration of Australian Government Grant Programs*, 31 July 2008, p. 56.

⁹ ANAO Audit Report No. 14 2007–08, *Performance Audit of the Regional Partnerships Program*, Volume 1—Summary and Recommendations, Canberra, 15 November 2007, p. 21.

¹⁰ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Proposals for the new Regional and Local Community Infrastructure Program*, Interim Report, November 2008, Recommendation 22, p. 56.

¹¹ See further at paragraphs 4.8 to 4.10.

Minister, the department did not provide recommendations to the Minister about which projects should be approved within the available funding of \$550 million.¹² This was a significant failing on the part of the department given that, since December 2007, the enhanced grants administration framework has required departments to provide advice to Ministers on the merits of each grant application relative to the guidelines for the program.¹³

26. It is difficult to understand in light of the department's experience with grants administration why greater attention was not given to designing and implementing the Strategic Projects component in a way that paid greater regard to the Government's December 2008 decision to accept all recommendations made in the July 2008 report of the Strategic Review of Grants, the November 2008 Interim Report of the House Standing Committee,¹⁴ the instructions issued by the Finance Minister in December 2007 and the findings and recommendations of earlier ANAO audit reports. The department has indicated to ANAO that it now has a better appreciation of its obligations under the enhanced grants administration framework, and that procedures will be implemented to provide a clear agency recommendation to the Minister concerning whether or not funding should be approved in respect to each application to competitive, merits-based grants programs it administers.

¹² The purpose of the risk assessment process undertaken in respect to shortlisted applications was to inform the Minister's consideration as to which projects should be further considered for possible approval of funding. The risk assessment process was not intended to prioritise or rank competing, eligible applications. This was evident from the results of the risk assessment, with 188 projects seeking \$808.9 million in Program funding being assessed as eligible, compliant and of a sufficiently low risk such that the department recommended that they could be considered for funding. The department did not rank or prioritise these 188 applications. Clearly, in the context of total Program funding of \$550 million being available, a further assessment stage would be necessary in order to identify which of the 188 projects should be approved for funding.

¹³ In another recent audit report, the department accepted that meeting the obligation to provide 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. Source: ANAO Audit Report No. 30 2009–10, *Management of the Strategic Regional Program/Off-Network Program*, Canberra, 22 April 2010, p. 80.

¹⁴ The Committee had released an Interim Report with the stated intention that its recommendations be used to help inform government decision-making as the Government considered the manner in which it would distribute funds for regional infrastructure projects during the global financial crisis. Source: House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Funding regional and local community infrastructure: Principles for the development of a regional and local community infrastructure funding program*, Final Report, June 2009, p. 1.

27. On 21 April 2009, the Minister's Office advised the department of a list of 137 projects the Minister intended to recommend to Cabinet for approval; and that this list had been derived taking into account one or more of the following factors:

- geographic distribution of projects;
- likely economic stimulus and community impact, drawing on population sizes, capacity within local government authorities, percentage of partnership funding, and nature of projects; and
- whether alternative funding sources are available or have been provided.

28. Whilst not inconsistent with the Program objectives and the published Guidelines, these criteria had not been published or otherwise advised to councils and other stakeholders. Further, there was no documented assessment of each application against the three criteria outlining: the extent to which each application had been assessed as satisfying each criterion; the information relied upon in making the assessment; or an overall assessment and ranking of each competing application.

29. The Minister's actual recommendations were finalised on 22 April 2009 and provided to Cabinet. The projects recommended for funding were identical in most respects to the list provided to the department one day earlier.¹⁵ On 22 April 2009, Cabinet endorsed the Minister's recommendations.

30. Prior to Cabinet being provided with recommendations as to which projects should be approved, analysis of the proposed distribution was undertaken on a geographic and electorate basis. In addition to providing what was considered to be a reasonable geographical spread of approved funding, the proportion of total funding awarded on an electorate basis was consistent with the proportion of seats held in the House of Representatives. Further in this respect, three of the four largest grants were made to projects located in electorates held by the Liberal Party (the third largest grant was made in respect to a project located in an Independent held electorate).

¹⁵ Three projects were removed, three different projects were included and the amount of funding for another project was reduced. See further at paragraph 6.4.

31. The published Program Guidelines outlined that all councils were eligible to apply for funding towards the cost of a large strategic project and that funding would be allocated on a nationally competitive basis. In this light, whilst the total amount of funding provided a reasonable geographic spread and was largely consistent with the proportion of electorates held by the major parties and Independent members, in terms of the number of applications, projects located in electorates held by the Australian Labor Party (ALP) and Independent Members were more successful at being awarded funding than those located in electorates held by the Coalition parties.

32. The higher approval rates for projects in ALP held electorates compared to those in Coalition held electorates was the case when considered in terms of political party representation in the House of Representatives, as well as when considered in terms of the pattern of applications¹⁶ and the types of councils within electorates. The awarding of funding to projects also disproportionately favoured ALP held seats when considered in terms of the extent to which the various applications indicated that construction work would be able to be undertaken in the desired economic stimulus timeframe.¹⁷

33. In advice to ANAO in July 2010, the Minister indicated that, in respect to the selection of projects and distribution of funding:

- he received detailed assessments (based on rigorous Independent Viability Assessments) and recommendations from his department on 14 April 2009 on the 202 projects which met the shortlisting criteria of 19 March 2009. Of these, 188 were recommended to him by the department as suitable for funding;
- he had asked Cabinet to endorse projects in the context of three objectives¹⁸ namely to: provide an equitable geographic distribution of funding; fund worthwhile projects where no alternative funding was available; and maximise the stimulus and community benefits;

¹⁶ The approval rate for projects located in an ALP held seat was 42.1 per cent compared with 18.4 per cent for projects located in a Coalition held electorate.

¹⁷ See further at paragraph 87.

¹⁸ See further at paragraphs 27 and 28.

- the 137 approved projects stimulated local economies and provided confidence into local governments representing over 12 million people and, collectively, leveraged in excess of \$1.5 billion in partnership funding thereby resulting in this amount flowing into local communities; and
- unlike the distribution of applications, which the Minister considered to be skewed as it reflected wide variations in council numbers and sizes across the country, the final allocation of funding by State and Territory was seen as being broadly representative of the populations of those jurisdictions.

34. In this context, it has become increasingly common for governments to analyse the distribution of grants on an electorate basis so as to assess, amongst other things, the relationship between intended grant outcomes following the application of selection criteria and the distribution of funding. Whilst the distribution of approved funding across electorates provides beneficial analysis to inform decision-making, an important measure of equity of access is the extent to which approved projects correlate with the pattern of applications in any applications-based grants program. In any event, Government decisions on grants administration that have subsequently been reflected in the CCGs emphasise the use of competitive, merit-based selection processes based upon clearly defined selection criteria.¹⁹

35. The Strategic Projects component was publicised as being a nationally competitive discretionary grants program to which all councils were eligible to apply. In this light, the distribution of grants in respect to those councils who had applied for funding, combined with the absence of a documented assessment of each application in terms of the three criteria (see paragraphs 25 to 28), means that the basis on which decisions were made to include, or exclude, particular applications to fit within the budget allocation was not

¹⁹ Department of Finance and Deregulation, *Commonwealth Grant Guidelines—Policies and Principles for Grants Administration*, Financial Management Guidance No. 23, July 2009, p. 29.

clear. In particular, the reasons for the selection of 131²⁰ of the 188 shortlisted applications, and non-selection of 57 shortlisted applications, were not apparent from the Program documentation or subsequent advice. The reasons for the selection of the additional six projects were documented, although in each case the documented reasons either involved the waiving of Program eligibility criteria (two applications) or were based on indications of considerations that were not included in the Program Guidelines as being relevant to the selection of projects (four applications).

36. To improve the transparency of grants approval processes,²¹ the financial framework applying to funding decisions for grants was subsequently enhanced by the Government 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. This reinforces the obligation, first introduced in December 2007, for departments to provide advice on the merits of each grant application in order to allow projects to be selected for funding having regard to the best outcomes from the expenditure of public moneys, relevant legislation and government policies.²²

37. Following approval of each of the projects, the department worked expeditiously to develop and sign Funding Agreements, and make the initial upfront payments. These steps were necessary to allow projects to commence

²⁰ Of the 137 projects approved for funding, 131 were selected from the list of applications shortlisted by the department and categorised as 'recommended subject to available funding', one had been shortlisted but the department considered it represented too high a risk for funding, another had also been shortlisted but the risk assessment had identified it as being ineligible and the remaining four had not been shortlisted but a risk assessment was subsequently undertaken at the request of the Minister. See further at paragraph 5.37.

²¹ The Strategic Review of Grants commissioned by the Government concluded that, given the fundamental importance of the approval process in relation to the expenditure of public funds, and for accountability purposes, it is critical that agencies have a clear understanding and record of Ministerial decisions, and their reasons. Consistent with an earlier ANAO recommendation, the review recommended that decision-makers be required to document the basis on which the approver was satisfied that the proposed expenditure represented an efficient and effective use of public money, and was in accordance with the relevant policies of the Commonwealth. Source: *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., pp. 9 and 67–68.

²² In this respect, the CGGs stipulate that the policy requirements that must be complied with in administering a grant program include the guidelines applying to a granting activity. Source: Department of Finance and Deregulation, *Commonwealth Grant Guidelines—Policies and Principles for Grants Administration*, Financial Management Guidance No. 23, July 2009, p. 9.

and thus generate economic stimulus. Subsequently, the department implemented procedures to monitor project commencement and progress as reported to it by councils.

Providing economic stimulus

38. In the context of an earlier audit, the Department of the Treasury (Treasury) informed ANAO that where infrastructure and public capital works projects can be implemented quickly, they are likely to boost aggregate demand in the short term and add to productive capacity over the longer term.²³ Accordingly, key parameters in the design of the Strategic Projects component related to funding ready to proceed ('shovel ready') projects that could provide timely stimulus to local communities.

39. The department has informed the ANAO that the need to roll out the Program quickly to meet the expectations of government and the community was a key factor in the way the department delivered the Strategic Projects component of the RLCIP. The prompt approval and announcement of funding for approved projects was important to provide confidence and greater certainty about the forward outlook in the local government and construction sectors, but there were delays in the announcement of funding for some projects. Further, the Strategic Projects component has not provided the planned level of stimulus in the timeframe that had been budgeted at the time it was introduced, as indicated by the following:

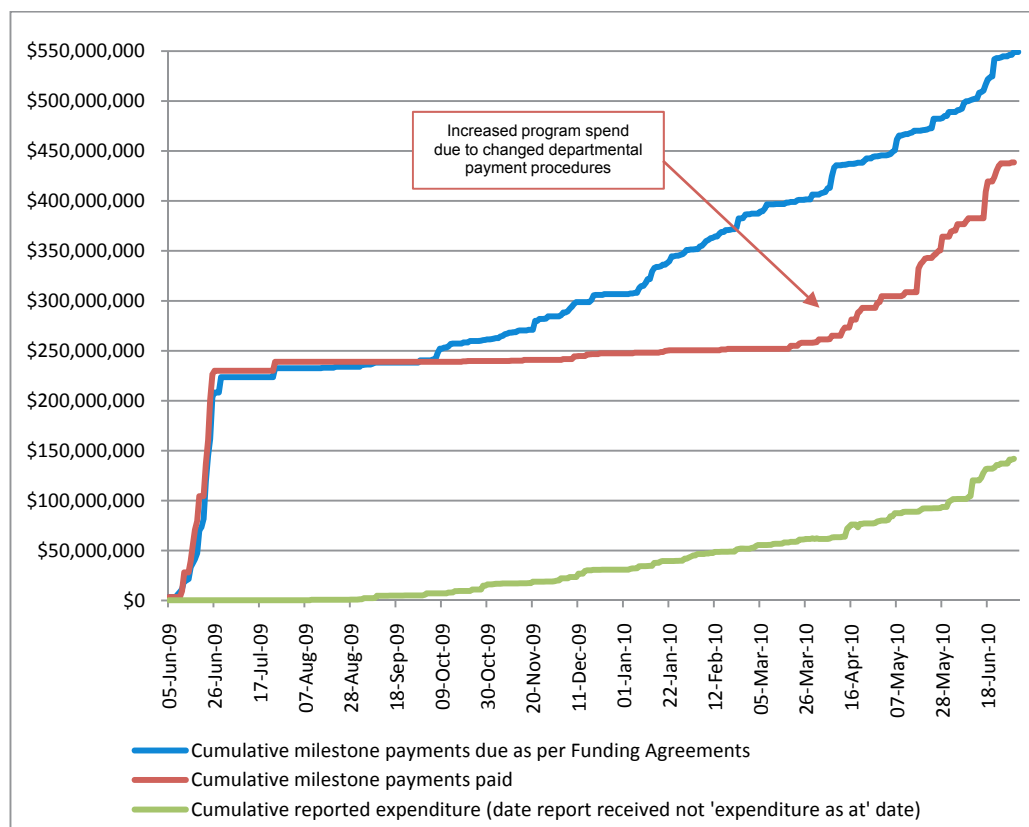
- the program timetable involved Funding Agreements being signed in June 2009 with a requirement that construction commence within six months of Funding Agreement execution. On the basis of the reporting to the department by councils, 75 per cent of the 137 projects approved for funding in April 2009 had commenced construction within six months of the Funding Agreement being signed but ANAO analysis is that this reporting is not sufficiently reliable. Rather, the best available indicator of project commencement and progress relates to expenditure by councils on the approved project;

²³ ANAO Audit Report No. 33, 2009–10, *Building the Education Revolution—Primary Schools for the 21st Century*, Canberra, 5 May 2010, p. 14.

- to enable construction work to commence as soon as possible, significant upfront payments (between 25 per cent and 50 per cent of the grant amount) were paid to councils upon signing of Funding Agreements. However, there have been significant delays in these payments being used together with delays in projects progressing such that further payments have been delayed.²⁴ By 31 March 2010, total grant payments made had risen to some \$277 million but these payments remained nearly \$130 million (32 per cent) below the level that should have been paid had projects commenced and been progressing in accordance with the milestones specified in the respective Funding Agreements (see Figure S 2); and
- the reported use of Program funding was minimal in the first six months of 2009–10 (also see Figure S 2). There has been no marked improvement in this situation in the period to 30 June 2010 such that councils had reported to the department that they had spent some \$142 million of the \$438.5 million that had been paid to them (some 68 per cent of funds had yet to be reported as spent).²⁵ In April 2010 the department changed its payment practices so as to increase the amount of funds being paid to councils (as illustrated in Figure S 2), but this has not meant that there has been any acceleration in the rate at which funding is being spent by councils.

²⁴ For example, had projects been proceeding in accordance with the Funding Agreement milestones, milestone payments of \$83 million would have been made by 31 December 2009. However, actual milestone payments made to that date totalled less than \$9 million, some 90 per cent lower than planned.

²⁵ By way of comparison, ANAO's audit of the BER P21 Program had noted that, as at December 2009, expenditure of program funds had fallen substantially short of what would be expected if anticipated payment milestones had been met by schools but for that Program the expectation was that construction expenditure would accelerate rapidly from the first quarter of 2010 onwards. Source: ANAO Audit Report No. 33, 2009–10, *Building the Education Revolution—Primary Schools for the 21st Century*, Canberra, 5 May 2010, paragraph 7.12.

Figure S 2**Scheduled payments to councils, actual payments made to councils and expenditure of Strategic Projects payments reported by councils**

Source: ANAO analysis of DITRDLG data.

40. The relatively low level of program expenditure to date reflects the situation that a large proportion of the projects approved for funding were not ready to proceed; were planned to be delivered over a longer timeframe than that necessary to provide timely stimulus; and/or involved high project delivery risks which have been realised. The consequence has been that, whereas the Strategic Projects component was budgeted to have paid out \$300 million in 2008–09 and the remaining \$250 million in 2009–10 and each of the 137 Funding Agreements (as originally signed) required that projects would have proceeded sufficiently so as to allow all Commonwealth funding

be paid on or before 30 June 2010, a significant rephasing of funds (\$112 million) from 2009–10 to 2010–11 has been necessary.²⁶

Improvement opportunities

41. The administration of grant funding is a significant and sensitive area of public administration that provides significant community benefits but requires care and effective oversight on the part of agencies and Ministers. This is particularly the case when circumstances dictate that programs need to be implemented in a short time period to meet government policy objectives whilst still treating applicants equitably and retaining public confidence in the selection process for the awarding of grants. In that context, this audit has highlighted that designing and implementing grants programs in a way that focuses on selecting those applications that clearly satisfy soundly-based selection criteria is considerably more likely to lead to a positive result in terms of achieving program objectives, promoting public confidence in grants administration and being efficient for agencies to administer.

42. The changes to the financial framework announced by the Finance Minister on 1 July 2009 will encourage enhanced decision-making and delivery of approved grants, but there remains a need for complementary steps by Ministers and agencies to ensure grants programs are designed and implemented in the best interests of outcomes and value from the significant levels of public expenditure involved. ANAO has made five recommendations to address the issues arising from the design and implementation of the Strategic Projects component of the RLCIP. A number of these recommendations are directed at encouraging stronger leadership within the department in the provision of advice to Ministers on the design and implementation of grants programs. The recommendations also identify some opportunities to further improve delivery of Australian Government funding to approved recipients in the pursuit of desired government policy outcomes. In addition, in June 2010 ANAO published a revised Better Practice Guide titled 'Implementing better practice grants administration' so as to complement the new framework for grants administration by providing a companion reference point that will assist decision-makers and administering

²⁶ Infrastructure, Transport, Regional Development and Local Government Portfolio, *Portfolio Budget Statements 2010–11*, Budget Related Paper No. 1.14, May 2010, p. 87.

agencies to understand and comply with their obligations and implement the better practice principles, having regard to the particular circumstances of individual grants programs.

Key findings by chapter

Program guidelines (Chapter 2)

43. The guidelines promulgated in relation to a grant program play an essential role in funding the most meritorious applications and promoting public confidence in the equity and probity of the grant giving process. As outlined at paragraph 16, since December 2007, the development, approval and publication of program guidelines has been a key aspect of the enhanced grants administration framework.

44. The Program Guidelines for the Strategic Projects component were approved by Cabinet on 12 November 2008 and published on 21 November 2008. A small number of changes were made to the Guidelines between their original approval and public release, with the changes aimed at allowing 'ready-to-proceed' projects to commence as soon as possible. The published Guidelines:

- provided an overview of the Program;
- included advice on those proponents that were eligible to apply, the types of projects that were eligible and those that were ineligible, and emphasised that incomplete applications would not be considered for funding;
- advised that the department would undertake a risk analysis of proposed projects, following which it would rank applications under three categories (recommended, not recommended and non-compliant);
- outlined that, following the department's risk assessment and ranking of projects, a decision on funding approval would be sought from the Minister for Infrastructure, Transport, Regional Development and Local Government; and
- provided information on the contracting and funding arrangements that would apply to successful applications.

45. In addition to the Program Guidelines, DITRDLG developed and published a document entitled 'Frequently Asked Questions'. This document was expected to be read in conjunction with the Guidelines as it was intended to provide information on the Program's objectives and timeframes and an overview of the application and approval processes.

Program objectives and assessment criteria

46. The Program Guidelines stated that funding was being made available under the Strategic Projects component 'to stimulate additional growth and economic activity across Australia as part of the Australian Government's contribution to addressing the global economic crisis.' The objectives of the RLCIP were to create local jobs and stimulate local economies in the short term and medium term.

47. The criteria that are to be applied in determining the funding recipients under a grant program are the key link between the program's stated objectives and the outcomes that are subsequently achieved from the funding provided. Particularly where competitive funding rounds are utilised, setting out the assessment criteria clearly in the program guidelines:

- assists to attract good applicants and discourages applicants that are unlikely to be successful; and
- contributes to the conduct of an efficient, effective, transparent and accountable process for differentiating between eligible, compliant applications that are competing for the available funding.

48. The Strategic Projects component Program Guidelines stated that the department would undertake a risk analysis of applications and rank them as recommended, not recommended or non-compliant. However, no version of the Program Guidelines outlined the criteria that would be applied by the department in ranking applications for Ministerial funding consideration. The only guidance in this respect was a statement that:

Larger projects and those that included partnership funding would be given preference.

49. However, no assessment criteria were established at the time the Strategic Projects component was announced, such that the published Program Guidelines did not advise councils of the criteria that would be used to develop a ranked list of eligible applications. Prioritisation and shortlisting criteria were established by Government at various points in time (as shown in

Table S 1) but opportunities to publish the criteria as they were decided upon were not taken and not all of the criteria were actually applied to prioritise or shortlist applications for further consideration. It was not until 21 April 2009, the day before the Minister put forward to Cabinet his recommendations on which projects he recommended be approved for funding, that assessment criteria were documented.

Table S 1

Prioritisation and shortlisting criteria for Strategic Projects component

Date	Criteria	Application
28 January 2009	<p>Funding increased to \$550 million and Government agreed that projects were to be prioritised based on:</p> <ul style="list-style-type: none"> – co-investment opportunities; and – indicative timetable: <ul style="list-style-type: none"> a) those that can commence and be completed in 2009; b) those that can commence in 2009 and be completed by mid-2010; and c) those that can commence in 2009 and be completed by late-2010. 	Not applied
9 February 2009	<p>Government agreed a set of criteria against which projects submitted for funding 'initially be shortlisted against two criteria':</p> <ul style="list-style-type: none"> – projects from local councils with populations of more than 100 000; and – projects from local councils with populations of more than 5 000 people which include co-funding and are for social and cultural or recreational facilities. 	Not applied
19 March 2009	<p>Government agreed to a set of shortlisting criteria:</p> <ul style="list-style-type: none"> – projects with partnership funding greater than or equal to 1 per cent of project cost; and projects from local councils with responsibility for populations of more than 100 000; – councils with populations between 10 000 and 100 000 which seek \$10 million or less of Commonwealth funding and fall into the following social and cultural or recreational categories: <ul style="list-style-type: none"> i. community centres; ii. cultural centres; iii. libraries; iv. enhancements of main streets and public squares; v. sports grounds and facilities; vi. kitchens for organisations; and vii. surf life saving clubs; and – all disaster affected councils (disaster declared). 	<p>Applied as a filtering process for all 484 applications to identify those applications that would be subject to a risk assessment, not to identify those applications that would be awarded funding.</p>

Source: ANAO analysis.

Checking application eligibility and compliance with Program Guidelines (Chapter 3)

50. Well-constructed eligibility criteria are straightforward, easily understood and effectively communicated to potential applicants, and it is better practice for the guidelines to clearly state that applications that do not satisfy all threshold criteria will not be considered. This helps to reduce frustration and unnecessary costs by assisting potential applicants to avoid developing and submitting applications that are ineligible or have little chance of success. It also promotes fairness and equity by guarding against situations where eligibility criteria are waived for some applicants, but not for others.

51. Each version of the published Program Guidelines for the first funding round of the Strategic Projects component of the RLCIP included clear and, in most respects, consistent guidance on applicant and project eligibility, as well as other threshold requirements an application needed to meet in order to be considered for funding.

52. One of the most important threshold criteria was that incomplete applications were not to be considered for funding. In this respect, in order to achieve the economic stimulus objectives of the Program, it was recognised that projects needed to be sufficiently well developed (as demonstrated through the project application) to enable them to be able to commence and be completed in a relatively short period of time (less than 18 months). A complete application was defined as one that answered all questions on the application and attached all required documentation needed to demonstrate the viability of the proposed project, such as recent business plans, feasibility studies, detailed project plans and project cost estimates.

Application of the threshold (eligibility and compliance) criteria

53. It is important that eligibility and other mandatory criteria advised to potential applicants be transparently and consistently applied in the assessment process. Accordingly, it is advisable to confirm the compliance of each application with those criteria as the first stage of the assessment process. This aids the efficiency of program administration because, in the interests of probity and fairness, non-compliant applications should be clearly identified as ineligible and excluded from further consideration.

54. Prior to the re-opening of applications²⁷, the department had developed and commenced applying procedures (through two 'cull sheets') to scrutinise applications submitted in response to the initial call for applications. The matters being assessed by the department included whether:

- the application had been submitted by an eligible applicant, being a council, group of councils, or by a council on behalf of a local not-for-profit organisation;
- the application was for an eligible project;
- the application had been submitted on time;
- the application was complete including whether supporting documentation such as a cost estimate, a feasibility study, a business plan with cash flow projects and a detailed project plan had been provided; and
- the project was likely to provide an economic stimulus in that it was ready to commence construction within six months of the Funding Agreement being signed, and was an additional stage or stages of a project that was already underway.

55. The initial assessment of applications was still set out in the latest version of the department's Strategic Projects component procedures manual (October 2009) provided to ANAO during the course of the audit. In addition, no substantive changes had been made to the published Program Guidelines or otherwise advised to potential applicants to identify that projects would no longer be scrutinised in terms of being complete and eligible for funding in accordance with the criteria set down in the published Guidelines.

56. A new compliance checking sheet was developed after Program funding was increased by \$500 million and applications were re-opened. The revised cull sheet combined the previous two forms, however, three key elements were either changed or removed. In addition, the revised, combined checklist was not completed for a significant proportion of the revised and new applications submitted to the re-opened round.

²⁷ See paragraph 10.

57. The threshold criteria relating to applicant eligibility, project eligibility and the requirement for funding applications to be complete were set out in published Program Guidelines that had been approved by Cabinet and, in one instance, Ministers explicitly decided to waive the project eligibility criteria for an application they wished to fund.²⁸ Accordingly, it would have been appropriate for DITRD LG to have sought explicit clarification from its Minister as to how the threshold criteria in the Guidelines were now required to interact with the prioritisation and shortlisting criteria agreed by Cabinet before the department abandoned the process of explicitly applying the threshold criteria as a first step in the process of assessing applications for funding. In June 2010, the department informed ANAO that this reflected the changing nature of the Government's consideration of the most appropriate means of dealing with the emerging pressures of the global financial crisis. Nevertheless, the equitable consideration of all applicants was not evident in the processes employed.

58. The original checking process for applications that was abandoned part way through assessment was not replaced with an alternative, systematic consideration of application eligibility and compliance. This meant that, rather than ineligible and incomplete applications being excluded from further consideration:

- all applications received were considered as to whether they should be shortlisted to undergo a risk assessment by the department, based on shortlisting criteria agreed by Cabinet on 19 March 2009, without any prior comprehensive review having been undertaken of applications in terms of their compliance with, and eligibility under, the published Program Guidelines. As a result, 143 (71 per cent) of the 202 projects shortlisted for risk assessment by the department based on the shortlisting criteria agreed by Cabinet on 19 March 2009 were ineligible and/or non-compliant in terms of the published Program Guidelines. The remaining 59 shortlisted projects seeking \$271.8 million were, based on the department's analyses, eligible and compliant; and

²⁸ The approved project was Etheridge Shire Council's application for the full \$18 million estimated cost of replacing the Einasleigh River Bridge on Gulf Development Road. The project was for a roads project although the published Guidelines had identified roads projects as not being eligible for funding under the Program. In making his recommendations about which projects should be approved for funding, the Minister had outlined reasons for waiving the project eligibility criteria in respect to this application.

- the only substantive opportunity for the department to identify shortlisted applications that did not meet the threshold criteria set out in the Guidelines was where such issues were identified incidental to the risk assessment process conducted in respect to shortlisted applications.²⁹

59. Risk assessment processes have a different focus than do eligibility and compliance checking processes. Accordingly, it is unsurprising that the risk assessments identified a small number (seven) of non-compliant/ineligible applications amongst those shortlisted, but overlooked a large number of other non-compliant/ineligible projects. As previously indicated, in one instance Ministers made an explicit decision to approve an application that was known to be otherwise ineligible under the Guidelines³⁰ but, in another 90 instances, approved non-compliant and/or ineligible projects without being made aware of this by the department.

Shortlisting applications received (Chapter 4)

60. Each version of the Program Guidelines had informed potential applicants that ‘the department will undertake a risk analysis of the council to undertake the proposed project’. The Guidelines also advised that Independent Viability Assessments would be undertaken by a qualified external consultant engaged by the department in situations where it was considered that there were risks to the viability of the proponent or project that required further consideration.

61. As well as being more likely to lead to a positive result in terms of achieving program objectives and promoting public confidence in grants administration, publishing well-developed eligibility and assessment criteria can also improve the efficiency of the departmental assessment process by reducing the need to apply resources to the assessment of ineligible or poor quality applications. Accordingly, in light of the importance to the Program

²⁹ The department advised ANAO in April 2010 that those eligibility checklists that had been completed were placed on the file for the relevant application. However, whilst included in departmental records, the completed checklists were not taken into account in the risk assessment process (for example, they were not provided to the Independent Viability Assessment providers—see paragraph 60, who were responsible for assessing project deliverability and sustainability risks).

³⁰ See footnote 28.

objectives of timely application assessment and approval processes, and the evidence from the initial application round that the existing approach of not publishing any assessment criteria was also likely to result in a significantly over-subscribed application round, there would have been benefits in the department canvassing with its Minister the merits of developing and publishing in the Program Guidelines assessment criteria. This was not done.

62. In addition, the approach taken to the risk assessment of individual applications was changed through:

- greater use of consultants to contribute to the conduct of risk assessments; and
- rather than complete a risk assessment of all 484 applications that were received (as had been suggested by the published Program Guidelines), the shortlisting criteria were used to identify a sub-set of 202 applications³¹ for which a risk assessment was conducted. This was viewed by the department as a necessary truncation of the originally envisaged process so as to meet the desired assessment timeframe.

63. Criteria for the shortlisting of applications for risk assessment were approved on 9 February 2009 (prior to the re-opening of applications on 13 February 2009) and 19 March 2009 (after the re-opened round had closed to applications on 6 March 2009). In neither case were the criteria included in published Program Guidelines or guidance.

64. The risk assessments considered and rated risks in five categories, namely: *Corporate and Personnel*; *Management of Grant Funds*; *Project Delivery*; *Project Sustainability*; and the *Proponent's Financial Position*. The outcome of risk assessments conducted on the 202 shortlisted projects was that seven were identified as non-compliant, with a further seven not recommended based on the assessment of risk. The department had advised its Minister that there

³¹ Shortly before funding recommendations were finalised, the Minister's Office instructed the department that, on the basis of community support for the project, five other projects were to be subject to a risk assessment. Four of the projects had not met the shortlisting criteria for risk assessment established on 19 March 2009 and the fifth project had already been subject to a risk assessment, with the department concluding it was ineligible. The Minister's Office advised the department that further risk assessments were being sought so that the Minister could decide whether to include these on the list of projects he would be recommending that Cabinet approve for funding. Each of the five projects was subsequently recommended by the Minister to Cabinet for approval, and was approved for funding.

were risks associated with reducing the time available to undertake the risk assessments, including a lack of rigour and inadequate scrutiny of applications.

Project delivery risks

65. The identification and management of project delivery risks is particularly important in the context of economic stimulus spending programs. This is because delays in the commencement and/or progression of projects approved for funding compromise the objective of providing timely stimulus to the economy.

66. The project delivery criterion was the most significant in terms of the number of risks identified and based on the risk ratings given to projects. For example, 166 projects were rated with a project delivery risk of *Moderate* or higher prior to receiving treatment. This compares to 126 projects with similar levels of risk under project sustainability and 45 projects under the proponent's financial position criteria. Against this background, project delivery risk was analysed from a range of perspectives, including whether the necessary project approvals and permits had been sought and obtained, project planning and management risks and cost risks.

Risk treatment

67. The department's documented procedure was that any application with one or more *High* or *Severe* risks identified required a risk treatment or treatments to be identified. Against this background, there were 23 projects not approved for funding that had been assessed as having *Low* or *Moderate* project deliverability and project sustainability risks. By way of comparison, there were 50 projects approved for funding that had been assessed as representing *High* or *Severe* project deliverability and/or project sustainability risks in the absence of any risk treatment. These circumstances give added emphasis to risk treatments being effective.

68. For those 188 shortlisted projects where the risk assessment had not identified the application as either non-compliant or too high a risk for funding, the proposed risk treatments were identified by the department in risk assessment summaries provided to the Minister. With one exception, the department concluded that the existing terms of the proforma Funding Agreement would effectively manage the identified risks.

69. However, it is not feasible for all project risks to be managed in a cost-effective manner through Funding Agreements. In particular, it is difficult, once funding has been approved for a project, to treat risks that relate to incomplete information having been available to inform decisions about which projects should be approved for funding. In this respect, for a number of approved projects, the Funding Agreement included a requirement for applicants to provide the missing key information before they would receive payments subsequent to the initial payment that had been made upon signing of the Funding Agreement. In a number of instances, the subsequent provision of this information actually raised significant issues concerning the delivery of the funded works including, for some projects, requiring the project scope to be reduced.

70. In this context, attempting to manage information gaps through the Funding Agreement undermined the strong approach to incomplete applications that had been taken in the published Program Guidelines and application form. It was also inequitable relative to those councils that had submitted a complete application. In addition, approving funding for incomplete applications increased the risk of the Strategic Projects component not delivering timely economic stimulus. In this respect, a total of 90 applications where the risk assessment had identified that one or more key items of information were missing were approved (an approval rate of 65 per cent) for a total of \$361.5 million in Program funding, but the majority of these projects have been delayed in implementation.

Selection of projects to be funded (Chapter 5)

71. It has been common for grant programs to operate through competitive funding rounds which open and close to applications on nominated dates, with eligible applications received by the closing date being assessed against the selection criteria set down for the program and then for competing, eligible applications to be ranked (or prioritised) in terms of the available funding.³² A merit-based, competitive funding round approach offers advantages such as:

³² House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Proposals for the new Regional and Local Community Infrastructure Program*, Interim Report, November 2008, p. 48 and *Funding regional and local community infrastructure: Principles for the development of a regional and local community infrastructure funding program*, Final Report, June 2009, p. 17.

- certainty of timeframes for applicants (which is important for project planning and viability) and agencies (which is important for effective resource management); and
- a transparent and reliable method of selecting successful applicants through a process of ranking competing eligible applications based on their relative performance against the published assessment criteria.

72. In terms of the design of the Strategic Projects component, there was no documented consideration given to developing appropriate assessment criteria either in November 2008 prior to the initial \$50 million component being announced, or in January/February 2009 when consideration was given to increasing Strategic Projects component funding (by which time it was clear that the application round would be over-subscribed).

73. Prioritisation criteria were established on 28 January 2009, with funding to be focused on those projects that included partner funding and would be delivered quickly. In this latter respect, priority was to be given in the following order to projects:

- that can commence and be completed in 2009;
- that can commence in 2009 and be completed by mid-2010; and
- that can commence in 2009 and be completed by end 2010.

74. These criteria were consistent with those established for other economic stimulus programs including in the Nation Building and Jobs Plan.³³ The timeframes set by the Government on 28 January 2009 as being a focus for projects under the Strategic Projects component of the RLCIP were also consistent with Treasury modelling of the optimal timeframe for medium term stimulus spending. However, applications to the re-opened application round were not assessed against the 28 January 2009 prioritisation criteria.

75. Instead, each of the 484 applications received were considered against shortlisting criteria established on 19 March 2009 in order to identify which applications would be the subject of a departmental risk assessment. In total, 202 applications were shortlisted for risk assessment, with external accounting

³³ See ANAO Audit Report No. 33, 2009–10, *Building the Education Revolution—Primary Schools for the 21st Century*, Canberra, 5 May 2010, paragraph 3.28.

firms playing a key role in the conduct of these assessments. The risk assessment results were provided to the Minister, with the department categorising 188 of the shortlisted projects as 'recommended subject to available funding'. This comprised applications assessed as representing a range of risks ranging from low to severe.³⁴ The remaining 14 projects were not considered by the department as meriting consideration for funding either because the risks were seen as unacceptable or the risk assessment had identified the application as being either non-compliant or ineligible.

76. The purpose of the risk assessment process undertaken in respect to shortlisted applications was to inform the Minister's consideration as to which projects should be further considered for possible approval of funding. It was not intended to prioritise or rank competing, eligible applications. This was evident from the results of the risk assessment, with 188 projects seeking \$808.9 million in Program funding being assessed as eligible, compliant and of a sufficiently low risk such that the department recommended that they could be considered for funding. Clearly, in the context of total Program funding of \$550 million being available, a further assessment stage would be necessary in order to identify which of the 188 projects should be approved for funding.

77. However, it was not until 21 and 22 April 2009, at the same time as the Minister put forward to Cabinet those projects that were recommended for funding approval, that assessment criteria were documented. In this respect, on 21 April 2009 the Minister's Office advised the department that the following criteria had been applied:

- Geographic distribution of projects;
- Likely economic stimulus and community impact, drawing on population sizes, capacity within local government authorities, percentage of partnership funding, and nature of projects; and
- Whether alternative funding sources are available or have been provided.

78. At this time, the Minister's Office also provided the department with a list of 137 projects that the Minister intended to recommend to Cabinet for funding approval.

³⁴ See Table 4.3 in respect to the assessment of project delivery and project sustainability risks.

79. The following day, the Minister signed a letter that summarised his recommendations as to which projects should be approved by Cabinet for funding. The letter had been prepared by the department on the basis of the previous day's email from the Minister's Office and, accordingly, referred to the same three criteria. Attached to the letter was a list of 136 projects that the Minister had recommended that Cabinet approve for funding. The Minister also recommended partial funding of a 137th project.³⁵ These 137 projects were identical in most respects to the list provided to the department one day earlier except that three projects had been removed, three different projects were now recommended for approval and the amount of funding for another project was reduced.³⁶

80. On 22 April 2009, Cabinet approved a total of \$549.67 million in funding for the 137 projects that had been recommended by the Minister in his letter of 22 April 2009.

Documentation of the application of the assessment criteria

81. The Minister's correspondence of 22 April 2009, outlining the three assessment criteria that had been taken into account, documented the basis of the recommendations made to Cabinet about which applications merited being approved for funding. In particular, the Minister had asked Cabinet to endorse projects in the context of three factors namely: the geographic distribution of projects; the likely economic stimulus and community impact; and whether alternative funding sources were available or had been provided.

82. However, just as specifying the assessment criteria in Program Guidelines does not obviate the need for a record as to how the criteria were applied to each competing application, the Minister's correspondence alone did not provide a sufficient record of the assessments that had been undertaken and, in particular, the basis for why it was decided that certain applications were more worthy of being approved for funding compared with other applications. The spreadsheets summarising the applications received that were provided to the Minister by the department one week earlier also do not fill this gap as they did not include any rating of the various applications

³⁵ Funding towards the renovation of Brisbane City Hall application submitted by Brisbane City Council.

³⁶ See further at paragraphs 6.4 and 6.5.

against the criteria documented by the Minister, or include an overall rating or ranking of each competing application.

83. While not affecting a Minister's right to decide on the allocation of grants, since 2007, the financial framework applying to grants decision-making has been progressively enhanced. In this respect, ANAO's audit of the Regional Partnerships Program highlighted that the provisions of the then-existing framework did not require approvers of proposals to spend public money, including Ministers, to record the basis on which they were satisfied that a proposal represents efficient and effective use of public money. In some circumstances this had left uncertainty as to the basis of decisions to provide a grant. In the interests of transparency and accountability, ANAO proposed that consideration be given to changes to the then-existing financial framework governing the expenditure of public money so as to require approvers of spending proposals to record the basis for their decision where this is not apparent from the existing documentation.³⁷ This recommendation was endorsed by both:

- the House Standing Committee, which recommended that changes to the financial framework be expedited so that the changes would be in place for the commencement of the new regional funding program;³⁸ and
- the Strategic Review of Grants, which commented that:

In view of the clear evidence of irregularities in past decision-making on discretionary grants, and given public concerns in this respect, the Review considers that there is a strong case to mandate a new requirement on the approvers of grant program spending under FMA Regulation 9 to document the *basis*, as well as the *terms*, of their approvals.³⁹

84. Against this background, since 14 December 2007, Ministers have been required to obtain agency advice on the merits of each proposed grant before

³⁷ ANAO Audit Report No.14 2007–08, Volume 2—Main Report, op. cit., pp 82–94 and Recommendation No. 2.

³⁸ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Proposals for the new Regional and Local Community Infrastructure Program*, Interim Report, November 2008, p. 59.

³⁹ *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., p. 9.

making any decision about whether to approve the grant.⁴⁰ The approach adopted of the department not being involved in the assessment of applications against the assessment criteria also does not sit comfortably with this requirement.⁴¹ Specifically, providing Ministers with advice on the merits of individual grants necessarily involves the department being involved in the application of assessment criteria (rather than, as in this case, performing a more limited role relating only to the assessment of risk), so as to provide advice as to whether each application should, or should not, be approved for funding. Further, in practice, advice on the merits of a grant application includes a clear agency recommendation to the Minister concerning whether or not funding should be approved under the program guidelines, having regard to the specified eligibility, assessment and any other relevant criteria.

Distribution and announcement of funding (Chapter 6)

85. In April 2009, prior to Cabinet being provided with recommendations as to which projects should be approved for funding, analysis of the proposed funding distribution was undertaken on a geographic and electorate basis. In addition to providing what was considered to be a reasonable geographical spread of approved funding, the proportion of total funding awarded on an electorate basis was consistent with the proportion of seats held in the House of Representatives. After adjusting for some late changes to the list of recommended projects (see paragraph 79), ANAO analysis in respect to the projects actually approved for funding was that:

- the ALP held 55 per cent of electorates, with 57 per cent of funding being awarded to projects located in an ALP held electorate;
- the Coalition parties held 43 per cent of electorates, with 37 per cent of funding being awarded to projects located in an electorate held by the

⁴⁰ Initially this requirement was introduced through Finance Minister's Instructions of 14 December 2007, was incorporated into one of the recommendations of the Strategic Review of Grants which was accepted by the Government in December 2008 and so was incorporated into the revised Instructions issued on 16 January 2009, and is now incorporated into the CGGs.

⁴¹ In terms of this requirement, the Strategic Review commented that: 'This is a prudent control, designed to ensure that where Ministers elect to assume a decision-making role in relation to the award of grants, they are well-informed of the department's assessment of the merits of grant applications and suitably briefed on any other relevant considerations.' Source: *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., pp. 7 and 62.

Coalition. In addition, three of the four largest grants were made to projects located in Liberal Party held electorates (the third largest grant was made in respect to a project located in an Independent held electorate); and

- Independent members held 2 per cent of electorates, with 6 per cent of funding being awarded to projects located in an electorate held by an Independent member.

86. The published Program Guidelines outlined that all councils were eligible to apply for funding towards the cost of a large strategic project and that funding would be allocated on a nationally competitive basis. In this light, and given the discretionary nature of Ministerial approvals⁴² under the Strategic Projects component of the RLCIP, it is also relevant to consider the distribution of approved funding across party electorates as well as the extent to which approved projects correlate with the pattern of applications. In these respects, the funding available under the Strategic Projects component of the RLCIP was:

- distributed in a way that meant projects located in electorates held by the ALP and Independent Members were more successful at being awarded funding than those located in electorates held by the Coalition parties when considered in terms of political party representation in the House of Representatives as well as the types of councils within electorates;
- directed towards ALP held electorates at a rate that was disproportionate to the pattern of applications. More specifically:
 - whilst the majority of applications received related to projects located in a Coalition held electorate (55 per cent of all applications), the significant majority (some 82 per cent) of these were not approved for funding. As a result, projects in a

⁴² Those projects approved for funding were not restricted solely to those that had been shortlisted for risk assessment. As it eventuated, four projects not shortlisted were approved for funding. In respect to these four projects, a risk assessment was undertaken at the Minister's request prior to him recommending that they be approved. In respect to a further two approved projects, the risk assessment concluded that funding should not be approved, but it was (in one instance, the identified concern was that the project was ineligible, in the other instance the department considered the project represented too high a risk).

Coalition held electorate comprised 36 per cent of approved applications, with an approval rate of 18.4 per cent; whereas

- whilst 40.3 per cent of all applications related to a project in an ALP held electorate, just under 60 per cent of approved projects were in an ALP held electorate. The approval rate for these applications was 42.1 per cent, which was more than twice that of projects located in a Coalition held electorate.

87. The different distribution outcomes that arise in terms of the amount of funding and the number of applications approved for funding reflect a number of factors:

- the four largest grants were awarded to projects in electorates not held by the ALP. In aggregate, these four projects (3 per cent of the total number of projects approved) were awarded 15 per cent of the available Program funding;
- there were significantly more applications received in respect to projects located in a Coalition held electorate (55 per cent of all applications) than were received for projects located in an ALP held electorate (40 per cent of all applications); and
- a significant proportion (72 per cent) of applications in respect to projects located in a Coalition held electorate were not shortlisted for the conduct of departmental risk assessments but the majority (52 per cent) of applications in respect to projects located in an ALP held electorate met the shortlisting criteria.⁴³ There was no evidence that the shortlisting criteria were intended to benefit electorates held by one party compared to another.

88. The awarding of funding to projects also disproportionately favoured ALP held seats when considered in terms of the extent to which the various applications indicated they would be able to undertake construction work in the desired economic stimulus timeframe of 18 months. Specifically, of the

⁴³ Excluding those projects that were not shortlisted: 79 of 102 shortlisted projects located in an ALP held electorate were approved for funding (an approval rate of 78 per cent); 47 of 75 shortlisted projects located in a Coalition held electorate were approved for funding (an approval rate of 63 per cent); and five of 11 shortlisted projects located in an electorate held by an Independent member were approved for funding (an approval rate of 46 per cent).

346 projects that the application had indicated would be capable of being undertaken within the desired economic stimulus timeframe, 145 (42 per cent) were located in ALP held electorates. Of those, 60 were approved for funding, representing a success rate of 41 per cent. By way of comparison, of the 346 projects the application had indicated would be capable of being undertaken within the desired economic stimulus timeframe:

- 186 (54 per cent) were located in Coalition held electorates. Of those, 28 were approved for funding, representing a success rate of 15 per cent; and
- 15 (4 per cent) were located in electorates held by Independent Members. Of those, four were approved, representing a success rate of 27 per cent.

89. In July 2010, the Minister indicated to ANAO that he had a different perspective in respect to the distribution of funding. In particular, the Minister informed ANAO that he had considered that the distribution of applications was skewed as it reflected wide variations in council numbers and sizes across the country. By way of comparison, the Minister viewed the final allocation of funding by State and Territory as being broadly representative of the populations of those jurisdictions.⁴⁴

Program outcomes (Chapter 7)

90. One of the most important measures for the various economic stimulus programs are their effect on employment. At the Commonwealth level, Treasury has been assigned responsibility for monitoring the overall economic effect of the various measures, including the total number of jobs supported.⁴⁵

91. The Strategic Projects component of the RLCIP was one element of the medium term stimulatory measures announced by the Government in late 2008 and early 2009. The criteria adopted by the Government for the design of the stimulus packages was that they be timely, targeted and temporary.⁴⁶ The

⁴⁴ See paragraph 6.8 and Table 6.1, together with paragraph 4.3 and Table 4.1.

⁴⁵ ANAO Audit Report No. 33, 2009–10, op. cit., pp. 23, 25, 41, 127 and 137.

⁴⁶ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *The Global Financial Crisis and regional Australia*, November 2009, p. 55.

specific objectives announced for the Strategic Projects component of the RLCIP were to create local jobs, stimulate local economies in the short term and medium term and (in the long term) provide long lasting benefits for communities. In July 2010, the Minister commented to ANAO that the 137 approved projects under the Strategic Projects component of the RLCIP had stimulated local economies and provided confidence into local governments representing over 12 million people and, collectively, leveraged in excess of \$1.5 billion in partnership funding thereby resulting in this amount flowing into local communities

92. In this context, some important steps were taken to expedite implementation of the Program so as to optimise its economic stimulus impact, including its focus on job creation. These included: a relative short timeframe being allowed for councils to develop applications; the Program Guidelines required applications to be complete (in order to minimise delays in projects commencing, for example, due to the need to complete designs, costings or obtain relevant approvals); the time available to the department to undertake risk assessments of applications was truncated; and there was timely Cabinet consideration as to which applications should be approved for funding. However, there were also aspects of the design and implementation of the Program that detracted from the objectives of timely creation of local jobs and stimulation of local economies. Specifically:

- at an early point in the assessment of applications, a shortlisting criterion was established (but not published) to give priority to projects likely to commence and complete before the end of 2010. This criterion was not applied and was later replaced by other shortlisting criteria that did not relate to the timeliness of construction activity commencing and being completed; and
- no assessment criteria were published in the Program Guidelines—whilst providing for a high degree of flexibility in the assessment of applications competing for the available funding, this approach contributed to the Program being significantly over-subscribed. By way of comparison, publishing well-developed eligibility and assessment criteria has been found to be more likely to lead to a positive result in terms of achieving program objectives, promoting public confidence in grants administration and being efficient for agencies to administer.

93. The shortcomings in the application process were compounded by the Funding Agreements executed with successful applicants not incorporating any provisions outlining intended outcomes for the relevant project (including employment outcomes), or how these would be measured and reported to the department.⁴⁷ This was the case even for those projects for which the application had stated that a certain employment outcome would result from the relevant project, and that expected outcome had been announced as part of the funding announcement.

94. While there will generally be caveats with respect to the numbers of jobs created from one source of funding, information on the number of jobs created or preserved would have been beneficial to inform the progressive assessment of program outcomes, particularly in providing an early indication of the stimulus effect on employment. It would also have been beneficial for any overall evaluation of the Strategic Projects component noting that robust evaluation of overall program outcomes is to be the third phase of the overall economic stimulus programs.⁴⁸

Program expenditure

95. In the context of ANAO's audit of the Primary Schools for the 21st Century element of the Building the Education Revolution Program (BER P21), the Treasury advised ANAO that where infrastructure and public capital works projects can be implemented quickly, they are likely to boost aggregate demand in the short term and add to productive capacity over the longer term.⁴⁹ Treasury's forecasts for economic activity under the Nation Building and Jobs Plan (which included the Strategic Projects component of the RLCIP) largely followed the budgeted expenditure under each program, with

⁴⁷ By way of comparison, the standard Funding Agreement adopted by DITRD LG to administer the \$40 million National Bike Path Projects component of the Jobs Fund (another economic stimulus grant program) requires that each progress report provided by funding recipients, as well as the final report for each project: estimate the number of Short Term Jobs and Long Term Jobs that are either created or maintained (or both) indirectly and describe how the estimate was calculated; and provide documentary evidence supporting the specified number of Short Term Jobs and Long Term Jobs which are either created or are maintained (or both).

⁴⁸ Commonwealth of Australia, 2010, *Commonwealth Coordinator-General's Progress Report to 31 December 2009*, Canberra, p. 18.

⁴⁹ ANAO Audit Report No. 33, 2009–10, *Building the Education Revolution—Primary Schools for the 21st Century*, Canberra, 5 May 2010, p. 14.

Treasury's modelling assuming that the stimulus programs would be implemented as announced by the Government with minimal lags between payments being made and economic activity taking place.

96. In this context, the Strategic Projects component was budgeted to have \$300 million paid out in 2008–09, with the remaining \$250 million to be paid out in 2009–10. Substantial up front payments (nearly \$239 million) were made in June and July 2009 upon the signing of Funding Agreements, with the remaining payments to be made as projects progressed. In this respect, rather than tailoring the payment arrangements to project cashflow needs as outlined in the respective applications, a formula approach was adopted depending on the size of the grant (see Table S 2).

Table S 2

Instalment payment arrangements for approved grants

Size of grant	Upfront payment	Second payment	Third payment	Fourth payment
Less than \$6 million	50 per cent	20 per cent	15 per cent	15 per cent
\$6 million to \$10 million	35 per cent	25 per cent	20 per cent	20 per cent
Greater than \$10 million	25 per cent	25 per cent	25 per cent	25 per cent

Source: ANAO analysis of DITRDLG data.

97. Achievement of the Program timetable, which involved Funding Agreements being signed in June 2009 and a requirement that construction commence within six months of Funding Agreement execution, required funding to have been focused on projects that, based upon the assessment of the application submitted, would demonstrably commence sometime between July and December 2009. Further in this respect, the underlying objective of achieving timely, targeted and temporary economic stimulus would have been promoted by having projects start as early in this six month period as possible.

98. The department took a number of steps in its administrative arrangements to support timely spending of the Program funds. In particular:

- consistent with the guidance in the Program Guidelines that to be eligible for funding, the project must be ready to commence construction within six months of signing the Funding Agreement, each Funding Agreement required that a continuous program of on-site construction commence within six months of each Agreement being signed;

- for each approved project, the Funding Agreement specified that the last project payment was scheduled to be made on or before 30 June 2010, although for many projects the funded activity was not expected to be completed for some considerable time after 30 June 2010;⁵⁰ and
- the department has actively monitored the reporting of commencement of construction work and has also actively monitored whether projects are proceeding in accordance with their respective Funding Agreements together with the extent to which Funding Agreement variations have been approved (and the impact of these on project completion dates) and whether progress reports were being submitted and progress payments claimed.

99. However, these administrative arrangements have been unable to compensate for the shortcomings in the approach taken to assessing applications and the selection of which projects should be approved for funding. In particular:

- for 90 of the approved projects, the departmental risk assessment had identified that one or more key items of information had not been included with the application, which the department had earlier recognised as increasing the risk that projects would not commence within six months;⁵¹
- one-third (45) of the approved projects had included in their application a project delivery timeframe that indicated the project

⁵⁰ Under the terms of the Funding Agreements signed in June and July 2009, a total of 41 projects involving aggregate funding of \$170.4 million were to complete the activity being funded by the Commonwealth on or before 30 June 2010, with a further 17 projects involving funding of \$48.4 million due to have the funded activity completed in the following three months (to 30 September 2009). In respect to the remaining 79 projects (58 per cent) involving aggregate funding of \$330.7 million were due to have the funded activity completed between October 2010 and July 2012.

⁵¹ This was particularly the case, for example, where documentation had been excluded from the application because it did not exist (rather than due to an oversight)—for example, where projects did not have in place the necessary approvals or designs had not been completed.

would not be completed in the desired economic stimulus timeframe;⁵² and

- 42 of the approved projects had been assessed as having a *Severe* or *High* project delivery risk rating.

100. On the basis of the reporting to the department by councils, 75 per cent of the 137 projects approved for funding in April 2009 had commenced construction within six months of the Funding Agreement being signed. However, based on ANAO site inspections at a sample of projects, it has been relatively common for councils to report that construction had commenced when it had not. A more reliable indicator of construction commencement and progress in this context has been the reported achievement of project milestones and whether the level of expenditure reported on the funded projects was sufficient for the second milestone payment to be made on time. In this respect, only 10 of the 137 approved projects had proceeded sufficiently to receive their second milestone payment within one month of it being due under the terms of the relevant Funding Agreement.

101. The results of delays in projects commencing and progressing are clearly illustrated in delays in program expenditure and in councils' reporting of their use of the funds paid to them. In this respect, had projects been proceeding in accordance with the Funding Agreement milestones, milestone payments of \$83.15 million would have been made by 31 December 2009 (in addition to the upfront payments of \$238.99 million). However, actual milestone payments made to that date totalled only \$8.45 million, some 90 per cent lower than planned.

102. Until recently, the department had adopted the sound practice of only making further payments when project milestones had been made and payments previously made had been fully spent and/or committed. However, only making further payments when councils had spent or committed the upfront payment contributed to overall Program expenditure being slower and

⁵² These projects were approved for a total of \$235.3 million in Program funding ahead of 254 other applications (seeking a total of \$925.9 million in Program funding) which had each indicated that the relevant project would be delivered in the desired economic stimulus timeframe (34 of these projects—seeking \$138.8 million in Program funding—had met the Government's shortlisting criteria for the conduct of a risk assessment with the department's risk assessment supporting them being considered for funding approval).

lower than had been budgeted. At the time ANAO audit fieldwork was concluded, the department was making arrangements to increase Program spending by making further payments before 30 June 2010 irrespective of whether councils had yet spent or committed the funds already advanced to them. Nevertheless, \$112 million was rephased from 2009–10 to 2010–11.

Summary of agency response

103. Summary comments received from the department on the proposed report are reproduced below, with the full response and ANAO comments on certain aspects of the response included in Appendix 1.

The department agrees to all five recommendations, noting that each, in effect, reflects existing guidance now published in the Commonwealth Grant Guidelines.

The department is concerned that the report does not present a balanced perspective on the program. In particular the draft report does not examine or recognise the community benefits arising from the investment in community facilities, nor any acknowledgement of the success of the program in meeting its objective to build local community infrastructure.

The program was implemented in the context of the global economic crisis and was part of the Government's response to the emerging crisis. The Government dealt with an unfolding global financial and economic crisis which required senior Ministers to re-consider and adjust policy and program settings as the impacts of the crisis became clearer. This included considering projects which would not only provide an immediate economic stimulus but also provide community infrastructure investment for the recovery post 2010-11.

The department also considers that the report's analysis on the allocation of funding is not balanced. Too great an emphasis is placed on the relationship between the number of applications received and the number of projects funded on an electoral and jurisdictional basis, which does not take into account clear Government decisions to give preference to larger, more capable councils serving larger populations. The final selection of projects represents an equitable distribution across jurisdictions and electorates, and provides funding to 137 councils which cover more than 12 million Australians.

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 4.57

ANAO *recommends* that the Department of Infrastructure, Transport, Regional Development and Local Government improve the effectiveness of its risk management practices in assessing applications to grant programs by clearly discriminating between those risks that should be addressed before the application is considered for approval, those that require appropriate treatment prior to a Funding Agreement being executed and those that can be managed through a Funding Agreement.

DITRDLG response: Agreed.

Recommendation No.2

Paragraph 5.76

ANAO *recommends* that, in the design of future grants programs, the Department of Infrastructure, Transport, Regional Development and Local Government develop for Ministerial consideration clearly defined selection criteria that will be published in the program guidelines and applied in the assessment of grant applications.

DITRDLG response: Agreed.

**Recommendation
No.3**

Paragraph 7.19

ANAO *recommends* that, in the design of future grant programs, the Department of Infrastructure, Transport, Regional Development and Local Government give more consistent support to the achievement of key program objectives by:

- (a) obtaining information from project proponents on the extent to which their proposal is expected to contribute to program objectives;
- (b) analysing the outcomes information submitted by proponents so that funding decisions can be informed by a robust assessment of the merits of competing proposals; and
- (c) through the Funding Agreement, requiring funding recipients to report on progress toward, and the final achievement of, the anticipated project outcomes that informed the decision to award funding.

DITRDLG response: Agreed.

**Recommendation
No.4**

Paragraph 7.50

ANAO *recommends* that, in the interests of having program expenditure better reflect its substantive economic effect, the Department of Infrastructure, Transport, Regional Development and Local Government identify opportunities in future grant programs to tie payments to proponents more closely to the cash flow needs of approved projects.

DITRDLG response: Agreed.

**Recommendation
No.5**

Paragraph 7.60

ANAO *recommends* that, given the importance to economic stimulus outcomes of minimising lags between Program payments to councils and use of these funds by councils, the Department of Infrastructure, Transport, Regional Development and Local Government publicly report against key performance indicators for the Strategic Projects component of the Regional and Local Community Infrastructure Program, including the extent to which program funds paid to councils have been spent.

DITRD LG response: Agreed.

Audit Findings and Conclusions

1. Introduction

This chapter makes reference to the global financial crisis, introduces the Strategic Projects component of the Regional and Local Community Infrastructure Program, provides an overview of the Commonwealth's grants administration framework and sets out the audit objectives and scope.

Background

1.1 The onset of the global financial crisis in 2008 caused a severe loss of confidence, not only in the financial sector, but also in households and businesses around the world. The crisis has been attributed to a range of factors including: the sudden end of the United States housing boom; novel debt financing arrangements; and weaknesses in regulatory oversight. The result was a period of global economic downturn and a prospect of rising unemployment in many countries.

1.2 In response, many governments around the world have adopted fiscal measures to support employment and economic recovery. There has also been coordinated international action through the Group of Twenty (G-20) countries, of which Australia is a member, to provide liquidity, address regulatory deficiencies, unfreeze credit markets and ensure that international financial institutions are able to provide support for the global economy.⁵³

1.3 Domestically, the Australian Government prepared and announced a series of stimulus measures in late 2008 and early 2009. They included the:

- Economic Security Strategy (announced on 14 October 2008);
- Council of Australian Governments (COAG) Funding Package (announced on 29 November 2008);
- Nation Building Package (announced 12 December 2008);
- Nation Building and Jobs Plan (announced 3 February 2009);

⁵³ On 15 November 2008, the leaders of G-20 countries attended the *Summit on Financial Markets and the World Economy* to determine appropriate, coordinated action to restore global growth and achieve necessary reforms in the world's financial systems. Subsequent G-20 Leaders' Summits on the global financial crisis were held in London, in early April 2009, and Pittsburgh, in late September 2009.

- Jobs, Training and Youth Transitions Package (announced 30 April 2009); and
- Nation Building Infrastructure Measures (announced May 2009).

1.4 These packages were aimed at delivering a broad range of short, medium and long-term stimulatory measures including the first home owners boost, increased investment in schools, housing, community infrastructure and roads, and assistance for young people to access education and training places.

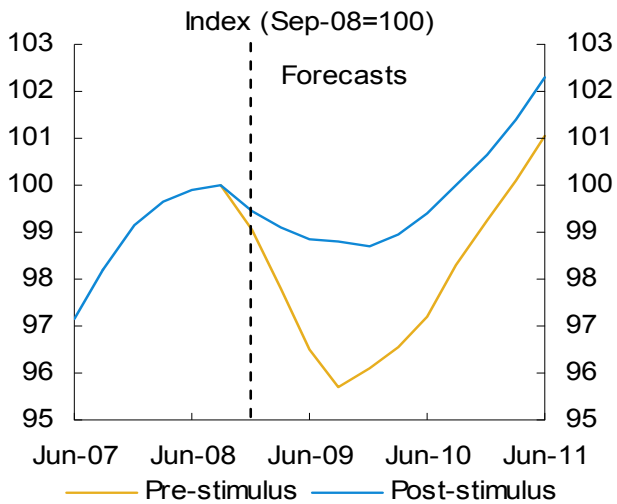
1.5 The criteria adopted by the Government for the design of the stimulus packages was that they be timely, targeted and temporary.⁵⁴ The first phase of fiscal measures was designed to provide immediate support to growth—largely through transfer payments to cash constrained households. Subsequent measures were largely investment-related, most notably infrastructure investment.⁵⁵

1.6 The Government's cumulative fiscal stimulus measures were designed to ameliorate the adverse effects on the Australian economy from the global financial crisis, particularly on unemployment. In total, the Government's stimulus packages announced before and as part of the 2009–10 Budget were forecast to raise the level of Gross Domestic Product (GDP) by 2¾ per cent in 2009–10 and 1½ per cent in 2010–11, compared to taking no action (see Figure 1.1). This increase in GDP was forecast to translate into support for up to 210 000 jobs, with a peak unemployment rate of around 1½ percentage points lower than if no Government action was taken (see Figure 1.2).⁵⁶

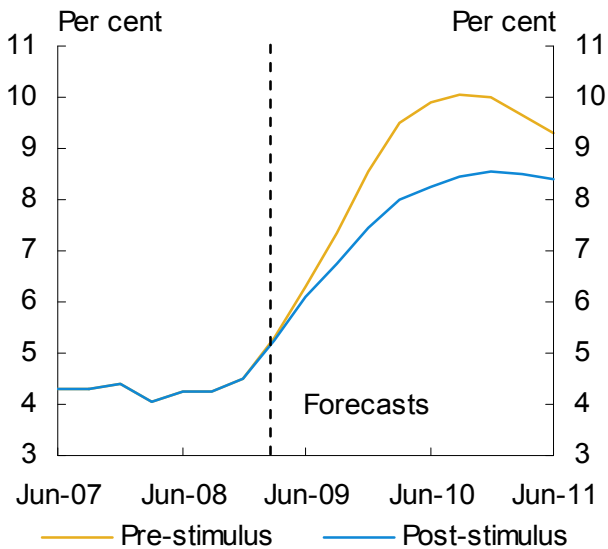
⁵⁴ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *The Global Financial Crisis and regional Australia*, November 2009, p. 55.

⁵⁵ Henry, K., *The Global Financial Crisis and the Road to Recovery*, Speech to the Australian Institute of Company Directors on 23 September 2009, available from <treasury.gov.au> [accessed 17 November 2009].

⁵⁶ Commonwealth of Australia, 2009, *Commonwealth Coordinator-General's Progress Report: 3 February 2009–30 June 2009*, Canberra, p. 24, available from <economicstimulusplan.gov.au> [accessed 17 November 2009].

Figure 1.1**Forecast stimulus effect on real GDP**

Source: Commonwealth Budget 2009–10: Overview

Figure 1.2**Forecast effects of the stimulus on unemployment**

Source: Commonwealth Budget 2009–10: Overview

Regional Funding Programs

1.7 For many years, the Commonwealth has administered funding to regions and local communities through grant programs.⁵⁷ Immediately prior to the 2007 Federal election, the two major regional funding programs were the Regional Partnerships Program and the Sustainable Regions Program. In respect to the Regional Partnerships Program, on 12 September 2007, the then Minister for Transport and Regional Services announced⁵⁸ that:

- a new Growing Regions Program would be established to invest in major projects, with \$200 million in funding over four years, with businesses, local governments, institutions and communities able to apply for funding of \$1 million to \$3 million per project; and
- the Regional Partnerships Program would be restricted to projects that needed funding of less than \$1 million, the lower threshold for an application under Growing Regions, with applications for Regional Partnerships funding to be considered in three streams.

1.8 In the May 2008 Budget, the new Government announced that the Regional Partnerships Program would be replaced with a new Regional and Local Community Infrastructure Program (RLCIP) from 2009–10.⁵⁹ Also in May 2008, the Minister for Infrastructure, Transport, Regional Development and Local Government asked the House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government (the House Standing Committee) to investigate and report on options for the new funding program.

⁵⁷ For example, at the time of the then Government's August 2001 *Stronger Regions, A Stronger Australia* Statement, the then Department of Transport and Regional Services managed ten community grants programs—Regional Solutions, Regional Assistance, Rural Transaction Centres, Dairy Regional Assistance, Sustainable Regions, Rail Reform Transition and the structural adjustment packages for the Eden Region (NSW), Newcastle (NSW), Wide-Bay Burnett (QLD), and the South West Forests (WA) regions.

⁵⁸ The Hon Mark Vaile, Minister for Transport and Regional Services, *National Press Club Address Plan for Regional Australia*, VS19/2007, 12 September 2007.

⁵⁹ *Strengthening Rural and Regional Australia*, Statement by The Honourable Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government and The Honourable Tony Burke MP, Minister for Agriculture, Fisheries and Forestry and The Honourable Gary Gray MP, Parliamentary Secretary for Regional Development and Northern Australia, 13 May 2008, p. 2.

1.9 On 5 November 2008, the House Standing Committee tabled an Interim Report on its inquiry into a new regional development funding program. The Committee's decision to issue an interim report stemmed from the Government's decision to accelerate its nation building agenda in response to the global financial crisis. The Committee's intention was for the recommendations of the Interim Report to help inform government decision-making as the Government considered the manner in which it would distribute funds for regional infrastructure projects.⁶⁰

Establishment of the Regional and Local Community Infrastructure Program

1.10 Governments have the executive authority to establish and abolish programs, but require the Parliament to appropriate funds to enable expenditure to occur. In this context, as providing policy advice to government is a core function of the Australian Public Service, grant programs are often established with the benefit of prior agency advice, but this is not always the case.

1.11 On 12 November 2008 (prior to the announcement of the RLCIP program on 18 November 2008 and one week after the House Standing Committee tabled its report), the Government agreed to establish a \$50 million Strategic Projects component within the RLCIP, and also approved the proposed grant guidelines that outlined the way in which the \$50 million in funding could be accessed. This decision was taken on the basis of proposals to establish two separate funds involving:

- \$250 million paid to all council's with the funds allocated by a formula; and
- \$50 million for a Strategic Projects Infrastructure Fund designed to finance high priority infrastructure projects with a value of greater than \$2 million.

⁶⁰ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Funding regional and local community infrastructure: Principles for the development of a regional and local community infrastructure funding program*, Final Report, June 2009, p. 1.

1.12 The advice to the Government recognised that, ideally, these options would have been funded over a number of years but, in light of the economic circumstances and the proposed fiscal response, they had been structured as 2008–09 one-off expenditure proposals. It was further recognised that, in order to achieve an underlying cash impact in 2008–09 only, substantial prepayments of grants (ahead of standard funding milestones) would be required. In respect to risks to the proposed \$50 million Strategic Projects component, the advice to the Government acknowledged that large scale projects are routinely complex and may require some time to complete. Further, some delays in construction (and economic impact) were seen as likely.

1.13 On 18 November 2008, the \$300 million RLCIP was announced by the then Prime Minister at the ACLG’s inaugural meeting.⁶¹ In a joint media release, the then Prime Minister and the Minister for Infrastructure, Transport, Regional Development and Local Government, stated that:

The Rudd Labor Government today announced a \$300 million program to build local community infrastructure in all of Australia’s 565 local council areas. This \$300 million Regional and Local Community Infrastructure Program (RLCIP) will boost local economic development and support jobs in communities around the country. Today’s announcement is further decisive action from the Rudd Government to stimulate the Australian economy during a severe global financial crisis. The program is also an initial down-payment on the Government’s plans to meet urgent needs in communities and create long-term infrastructure. Funding will be delivered under the program by 30 June 2009 to ensure the stimulatory effects of this package are delivered to local economies as quickly as possible.

The Government made the formal announcement at the inaugural meeting of the Australian Council of Local Government—a direct partnership between local and federal governments to undertake nation-building. Today’s infrastructure program will target projects that can be delivered promptly, providing an immediate boost to local and regional economies.⁶²

⁶¹ Government Response to the House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Interim and Final Reports of Inquiry into Funding Regional and Local Community Infrastructure*, p. 3.

⁶² The Hon Kevin Rudd MP, Prime Minister and The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Local Communities to Receive \$300 million for Regional and Local Infrastructure*, Joint Media Release, AA176/2008, 18 November 2008.

1.14 The \$300 million RLCIP was later described as being the third phase of the Government's Economic Security Strategy, announced in October 2008.⁶³

Council Allocation component

1.15 In announcing the RLCIP, it was stated that the one-off \$250 million Council Allocation component would be allocated to councils and shires for additional ready to proceed local community infrastructure projects, and for additional stages of projects already underway. Each council was to receive a minimum payment of \$100 000 with the balance to be distributed on the basis of a methodology which included relative need, population and growth.⁶⁴ This methodology was based on data collected by State and Territory local government grants commissions.

1.16 In order to claim their allocations, councils (and the ACT) were required to submit proposals to DITRDLG that met the Council Allocation component Programs Guidelines (separate guidelines were published for the Council Allocation and Strategic Projects components). Once the submitted projects were approved by the department, 100 per cent of the funding allocation was paid upon signing a Funding Agreement.

1.17 Reflecting the importance of timely economic stimulus, all Council Allocation component Funding Agreements were to be signed by 30 January 2009; progress projects were to be submitted by councils to the department by 30 May 2009; all Commonwealth funds were required to be spent by 30 September 2009; and a final report on how each funding recipient had spent the money was due to the department by 30 November 2009. All of the \$250 million was paid between February and April 2009 but councils have reported to the department that, as of 30 September 2009, some \$178 million (71 per cent) had been spent but \$72 million (29 per cent) had not.⁶⁵

⁶³ *Nation Building: Road, Rail, Education & Research and Business*, Statement by The Honourable Kevin Rudd MP, Prime Minister and The Honourable Julia Gillard MP, Deputy Prime Minister and Minister for Education, Employment, Workplace Relations and Social Inclusion and The Honourable Wayne Swan MP, Treasurer and The Honourable Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, December 2008, p. 2.

⁶⁴ The Australian Capital Territory (ACT) also received a \$2 million allocation under this component of the RLCIP. The amount for the ACT was not based on the formula approach.

⁶⁵ Figure based on data contained in final reports submitted as at 22 January 2010.

1.18 A separate performance audit of the Council Allocation component is also underway with the report expected to be tabled in early 2011.

Strategic Projects component

1.19 As noted above, funding under the Council Allocation component was available to all councils, with the amount available established through a formula. By way of comparison, in announcing the RLCIP, it was stated that the Strategic Projects component would be:

competitive, application-based, accountable and open to only those projects seeking a minimum Commonwealth contribution of \$2 million on a nationally competitive basis.⁶⁶

1.20 Similarly, each version of the published Program Guidelines emphasised that the Strategic Projects component would operate as a merit-based discretionary grants program. In particular, each version of the Guidelines stated that:

Projects will be allocated funding on a nationally competitive basis and will be assessed by the Department of Infrastructure, Transport, Regional Development and Local Government (the Department) on a tight timetable.

1.21 The Strategic Projects component of the RLCIP is referred to in this audit report as the 'Strategic Projects component'.

Overview of the 2008–09 Funding Round of the Strategic Projects component

Initial call for applications in November 2008

1.22 The initial call for applications to the first round of the Strategic Projects component was announced on 21 November 2008, three days after the Program was announced. On that date, the Minister for Infrastructure, Transport, Regional Development and Local Government:

- released the Program Guidelines, stating that they had been endorsed by the Australian Local Government Association (which the Minister

⁶⁶ The Hon Kevin Rudd MP, Prime Minister and The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Local Communities to Receive \$300 million for Regional and Local Infrastructure*, Joint Media Release, AA176/2008, 18 November 2008.

stated had been provided with drafts earlier that week for its consideration);

- released the official timetable, which was intended to encourage local councils and shires to identify local projects as soon as possible so as to have funding released promptly;
- announced that application forms for the \$50 million Strategic Projects component would be available (on the department's website) later that day for projects seeking a minimum Commonwealth contribution of \$2 million or more; and
- announced that complete applications must reach the department by 23 December 2008.⁶⁷

1.23 On 25 November 2008, the Minister launched the official Information Line to help councils and shires apply for funding through the RLCIP. The Minister stated that the Information Line would operate from 9am–5pm (Australia Eastern Standard time) Monday-Friday to assist local governments with:

- accessing funding under the RLCIP;
- acquiring guidelines for the RLCIP; and
- understanding and completing the application form for the RLCIP Strategic Projects.⁶⁸

1.24 The Minister further stated that:

The Information Line is being staffed by trained officers from my Department to help councils speed up the application process. The Government is determined to make sure that high quality and ready-to-proceed local infrastructure projects get approved and underway as quickly as possible. That's why we have set strict deadlines to deliver funds in this financial year.

⁶⁷ The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Guidelines Released for \$300 million Regional and Local Community Infrastructure Program*, Media Release, AA180/2008, 21 November 2008.

⁶⁸ The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Information Hotline for Councils to Apply for \$300 Million Regional and Local Community Infrastructure Program*, Media Release, AA193/2008, 25 November 2008.

Applications for the \$50 million Strategic Projects are due on 23 December 2008.⁶⁹

1.25 A limit of one application per council or group of councils had been announced in November 2008. By 23 December 2008, the Department of Infrastructure, Transport, Regional Development and Local Government (DITRDLG) had received 344 applications that sought some \$1.2 billion of Commonwealth funds for projects with an overall value of \$2.9 billion.

Program funding increased by \$500 million to \$550 million

1.26 At its meeting on 28 January 2009, the Strategic Priorities and Budget Committee of Cabinet considered options to provide further economic stimulus through the Infrastructure, Transport, Regional Development and Local Government portfolio. In respect to the Strategic Projects component, the Committee was advised that:

- 335 applications had been received requesting a total of \$1.2 billion in Strategic Projects program funding in response to the call for applications for the \$50 million in available program funding; and
- DITRDLG had completed a preliminary assessment of all applications with the result that 100 did not meet the criteria that had been applied.

1.27 The Committee decided that:

- as a matter of urgency, the Minister for Infrastructure, Transport, Regional Development and Local Government should advise it of the potential to expand the funding for projects, given applications currently on hand; and
- the department should reconsider the 100 applications it had preliminarily assessed as not meeting the program criteria⁷⁰ in light of the Committee's predisposition to increase the quantum of funding available for the Program.

⁶⁹ *ibid.*

⁷⁰ The Committee also decided upon criteria that were to be used to prioritise applications deemed suitable for funding. This issue is examined further in Chapters 3 and 4.

1.28 Further discussion occurred after the Committee meeting between the Office of the then Prime Minister and the Office of the Minister for Infrastructure, Transport, Regional Development and Local Government. Subsequently, on 2 February 2009 the then Prime Minister wrote to the Minister for Infrastructure, Transport, Regional Development and Local Government:

- confirming the allocation of an extra \$500 million over two years to the Strategic Projects component of the RLCIP, with \$250 million to be allocated in 2008–09 and \$250 million in 2009–10; and
- reiterating the 28 January 2009 decision that priority was to be given to projects that could proceed quickly and for which co-investment from councils and other partners, such as State and Territory governments, was proposed.

1.29 On 3 February 2009, the Government announced the \$42 billion *Nation Building and Jobs Plan*, which represented the single largest package of fiscal stimulus measures. The Nation Building and Jobs Plan incorporated elements of both the December 2008 Nation Building Package and additional stimulus measures announced in February 2009. It comprised the following key elements (see also Figure 1.3):

- one-off cash payments to eligible families, single workers, students, drought-affected farmers and others;
- a temporary business investment tax break for small and general businesses buying eligible assets;
- increasing the stock of social and defence housing;
- substantially increasing funding for local community infrastructure and local road and rail projects;
- an energy efficient homes package for Australian homes; and
- funding to build or upgrade buildings in schools.

Figure 1.3

Nation Building and Jobs Plan

EDUCATION	SOCIAL/DEFENCE HOUSING	TRANSPORT/ INFRASTRUCTURE	ENERGY EFFICIENT HOMES
\$12.4 billion to build or renew large scale infrastructure, including libraries and halls in primary schools under the Primary Schools for the 21st Century program	\$6 billion for the construction of 20 000 social housing dwellings across Australia	\$1.2 billion to improve freight and passenger transport on Australia's railways through the Australian Rail Transport Corporation	\$613 million for the installation of ceiling insulation in private rental properties under the Low Emission Assistance Plan for Renters
\$1.3 billion for minor infrastructure and refurbishment projects for Australian schools under the National School Pride program	\$400 million for 2500 repairs and maintenance to existing social housing dwellings	\$711 million to accelerate 14 road projects under the Nation Building Program	\$507 million for the replacement of electric hot water systems with solar systems under the Solar Hot Water Rebate
\$1 billion to build 500 science laboratories and language learning centres in secondary schools under the Science and Language Centres for 21st Century Secondary Schools program	\$252 million for the construction of 802 Defence houses	\$300 million to further improve road safety under the Black Spot Program and Repairing Regional Roads scheme	\$2.7 billion for the installation of ceiling insulation under the Homeowner Insulation Program
\$1.6 billion to support infrastructure investment and strengthen facilities in the training and higher education sectors under the Education Investment Fund and the Teaching and Learning Capital Funds		\$150 million for safety measures at high-risk rail crossings under the Boom Gates for Rail Crossings program	
The bringing forward of an additional \$110 million to build and upgrade trade training facilities in secondary schools through Round 2 of the Trade Training Centres program		\$250 million for all local councils to construct local community infrastructure under the Regional and Local Community Infrastructure Program	
		\$550 million for larger strategic infrastructure projects in local communities under the Regional and Local Community Infrastructure Program—Strategic Projects component	
		\$195 million for social and economic development in the East Kimberley under the East Kimberley Development Package	

Source: Australian Government Coordinator-General's Progress Report: 3 February 2009–30 June 2009.

1.30 In respect to the Strategic Projects component of the RLCIP, as illustrated by Figure 1.3, the Nation Building and Jobs Plan reflected the agreed substantial increase in funding (an eleven-fold increase from \$50 million to \$550 million). The Council of Australian Governments (COAG)

agreed to the rapid delivery of the Nation Building and Jobs Plan at its meeting on 5 February 2009. In respect to the increased funding for the Strategic Projects component, COAG:

...welcomed the Commonwealth's commitment to develop further its relationship with local government, with funding of \$500 million allocated over two years to expand the Regional and Local Community Infrastructure Program—Strategic Projects, to address a serious backlog in the provision of community infrastructure across the nation. The funding will be allocated to projects identified as suitable under the program announced by the Commonwealth in November 2008. Priority will be given to local community infrastructure projects that can proceed quickly and where there is co-investment from councils and other partners such as State governments. Projects will be selected through a competitive, application-based and accountable process and funding will be conditional on projects proponents entering into legally-enforceable funding agreements with the Commonwealth.⁷¹

Applications re-opened

1.31 As part of the negotiations concerning the \$42 billion Nation Building and Jobs Plan legislation, the Australian Greens sought the agreement of the Government to re-open applications to the Strategic Projects component.⁷² On 13 February 2009, the Minister for Infrastructure, Transport, Regional Development and Local Government announced that the Government had secured the passage of the \$42 billion Nation Building and Jobs Plan legislation, which included an additional \$500 million for the Strategic Projects component of the RLCIP. The Minister's announcement also outlined that:

The Government will give local councils and shires the opportunity to submit new or revised applications for the Regional and Local Community Infrastructure Program—Strategic Projects.⁷³

⁷¹ Council of Australian Governments, *Communiqué*, 5 February 2009, p. 8 available from <http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_communique.pdf>.

⁷² Senate Hansard, 12 February 2009, p. 899 and Senator Scott Ludlum, Media Release, *Greens secure wins for councils in stimulus*, 13 February 2009.

⁷³ The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Rudd Government Secures Extra \$500 Million for Local Community Infrastructure—No Thanks to Liberal and National Parties*, Media Release, AA28/2009, 13 February 2009.

1.32 The Minister's announcement advised that councils had until 4pm Australian Eastern Daylight Saving Time, Friday 6 March 2009 to submit new or revised applications. It was further announced that the existing Program Guidelines would continue to apply.

1.33 As a result of bushfires in Victoria and floods in north Queensland and northern NSW, on 26 February 2009 the Minister wrote to 36 flood and 24 fire affected councils to determine how they were positioned to meet the 6 March 2009 deadline for the \$550 million Strategic Projects component. Subsequently, DITRDLG spoke to each affected council to determine whether it wished to continue with a proposal already submitted or submit a new or amended proposal, and to gain an understanding of whether additional time would be sought to submit proposals. While many affected councils intended to submit proposals within the original deadline of 6 March 2009, some councils requested an extension of time. In acknowledging the difficulties faced by many disaster affected councils, extensions were granted to the 11 councils requesting additional time.⁷⁴

1.34 The decision about which applications were to receive Program funding was made by Cabinet, in a meeting on 22 April 2009. The Government approved a total of \$549.672 million in funding for 137 projects. The total approved funding was subsequently reduced by \$117 000 to \$549.555 million, following the replacement one of the approved projects with a different project, based on advice from the Minister for Infrastructure, Transport, Regional Development and Local Government to the then Prime Minister that there had been an error in the list of recommended projects provided to Cabinet. Most of the successful projects were publicly announced over the course of April and May 2009.

⁷⁴ In this respect, on 13 February 2009, the 506 non disaster-affected councils had been advised by DITRDLG that: 'The Government is also conscious of the additional needs of local communities that have been affected by the Victorian bushfires and the Queensland floods. In particular, we are aware that the most severely affected Councils may have difficulties in developing detailed applications for major projects. We will consult with these Councils to determine options for assisting the rebuilding efforts in those communities.'

Grants administration framework

1.35 The Strategic Projects component is a discretionary grant program. On 14 December 2007, Finance Minister's Instructions were issued which included a number of instructions in relation to discretionary grant programs, including that:

- guidelines for any new grant programs be considered by the Expenditure Review Committee of Cabinet;
- Ministers not make any decisions on grants without first receiving departmental advice on the merits of the grant application relative to the guidelines for the program;
- where a Minister decided not to follow departmental advice, a ministerial group would decide whether to award or reject a grant following a submission from the requesting Minister outlining why a decision should be taken to award the grant against departmental advice;
- Ministers who were members of the House of Representatives not make any decisions in relation to grants in their own electorate, even on the basis of departmental advice. Rather, these decisions would be taken by a ministerial group;
- agencies have adequate arrangements in place to manage grant programs in accordance with relevant legislation, regulations and guidance; and
- details of individual grants be published on agency websites within two days of the announcement of the grant.

1.36 In February 2008, the Government announced that, in light of the results of significant Parliamentary and ANAO scrutiny of various grant programs, it would be undertaking a comprehensive review to examine the value of grants and the transparency and effectiveness of existing programs. The report of the *Strategic Review of the Administration of Australian Government Grant Programs* (Strategic Review of Grants) of 31 July 2008 concluded that there were important gaps and weaknesses in respect to the administration of

grants and made a number of recommendations to Government.⁷⁵ This included a recommendation that a whole-of-government, principles-based policy framework for the administration of grant programs be established under the *Financial Management and Accountability Regulations 1997* (FMA Regulations), which are made under the *Financial Management and Accountability Act 1997* (FMA Act).⁷⁶

1.37 In response to the Strategic Review of Grants, in December 2008, the Government agreed to a range of measures to reform the administration of grants, including the development of an improved framework for grants administration. Amongst other things, the Government agreed to a recommendation that:

- decisions on the award of grants should be taken by the Minister or other approver in the portfolio or agency with functional responsibility for the program in question;
- where Ministers undertake the role of approver under the FMA Regulations, they should be required to receive and consider agency advice on the merits of grant applications, as assessed against the relevant program guidelines, before taking any decisions on the award of individual grants;
- the advice and related briefing material provided to Ministers on grant program approvals should explicitly address the requirements of the FMA Regulations, making a clear recommendation as to what the Minister is approving and why the agency is recommending the approval; and
- it should be open to a Minister to reach a decision different from that recommended in an agency's advice—in these circumstances, or where the reasons for the Minister's decision to approve funding are different from those cited in the agency's advice, there should be a requirement on the Minister to record the basis on which he or she is satisfied that a grant spending proposal represents an efficient and effective use of

⁷⁵ Mr Peter Grant PSM, *Strategic Review of the Administration of Australian Government Grant Programs*, 31 July 2008, p. 3.

⁷⁶ *ibid.*, Recommendation 2, p. 23.

public money, and is in accordance with the relevant policies of the Commonwealth.⁷⁷

1.38 In addition, on 16 January 2009 the Finance Minister issued revised Finance Minister's Instructions with new requirements for grant approvals and reporting, particularly in relation to the approval of grants in the relevant Minister's own electorate or which the department had recommended be rejected.⁷⁸ The revised Instructions continued to require that guidelines for any new grant programs be considered by the Expenditure Review Committee and that Ministers should not approve grants without first receiving departmental or agency advice on the merits of the proposed grant.⁷⁹

1.39 The Government's December 2008 decision has now been reflected in the new policy framework for the administration of grant programs by agencies subject to the FMA Act that took effect from 1 July 2009. This new framework incorporates the policy requirements established in January 2009, together with a range of new requirements and guidance as part of the Government's full response to the Strategic Review of Grants. 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 established through amendment of the FMA Regulations; and

⁷⁷ *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., p. 66.

⁷⁸ Such decisions would now remain within the remit of the relevant Minister, rather than being referred to a ministerial group (as had been the requirement under the December 2007 Finance Minister's Instructions—see paragraph 1.35), but the Minister would be required to report such grants and, for grants the department recommended be rejected, the basis for their approval, to the Finance Minister. The reporting requirements took effect from 1 January 2009. Also on 16 January 2009, the Department of Finance and Deregulation released detailed guidance to agencies regarding the new Instructions, in the form of an Estimates Memorandum.

⁷⁹ The revised Instructions also retained the requirement for details of individual grants to be published on agency websites, although this was now required to occur within seven days of the funding agreement being signed by both parties, rather than the prior requirement of within two days of the grant being announced.

- Commonwealth Grant Guidelines (CGGs) issued under the FMA Regulations. Officials performing duties in relation to the administration of grants must act in accordance with the CGGs.⁸⁰ In addition to reflecting the policy requirements set out in the January 2009 Finance Minister's Instructions, key aspects of the guidance set out in the CGGs include that:
 - 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 grant guidelines;⁸¹
 - 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 develop and submit applications that are not ineligible or that have little chance of success;⁸² and

⁸⁰ 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.

⁸¹ An approach that has, for many years, been advocated in ANAO's Administration of Grants Better Practice Guide, including the May 2002 version that was the current version at the time the Strategic Projects component of the RLCIP was established. In June 2010, a revised Better Practice Guide titled 'Implementing better practice grants administration' was issued so as to complement the new framework for grants administration by providing a companion reference point that will assist decision-makers and administering agencies to understand and comply with their obligations and implement the better practice principles, having regard to the particular circumstances of individual grants programs.

⁸² This same guidance was included in ANAO's May 2002 Administration of Grants Better Practice Guide (at paragraph 2.50).

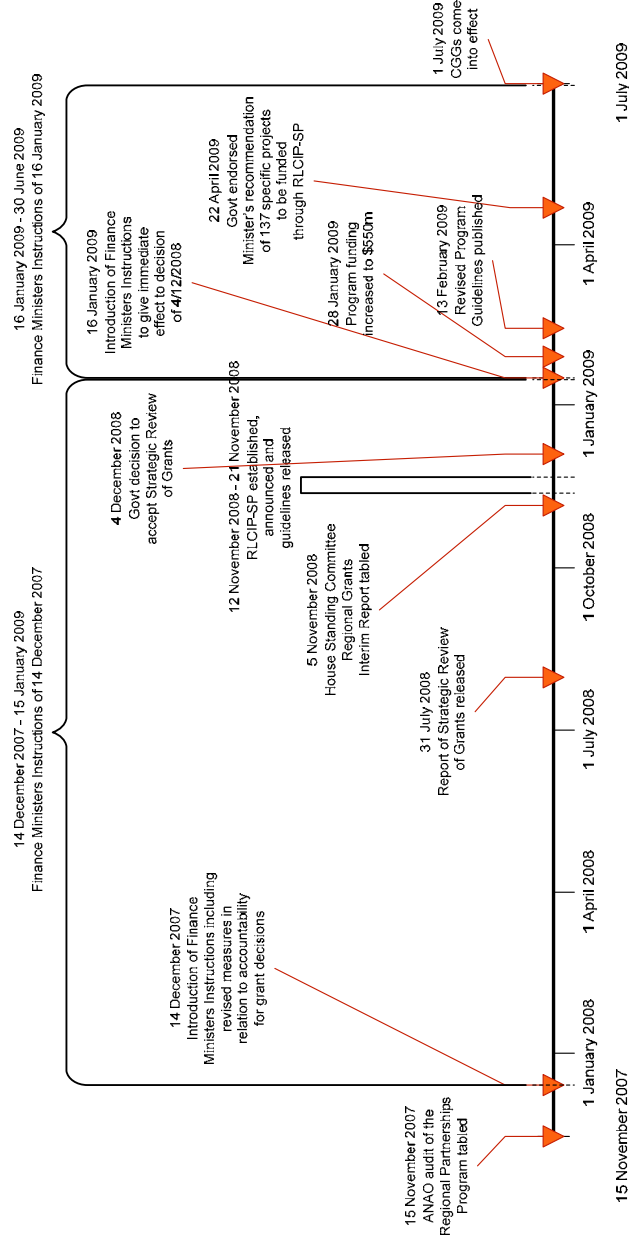
- in the interests of transparency, accountability and equity, grant guidelines should document the circumstances in which the eligibility and assessment criteria may be waived or amended.⁸³

1.40 The Government's December 2008 decisions have now been reflected in the new policy framework for the administration of grant programs by agencies subject to the FMA Act that took effect from 1 July 2009. Whilst the enhancements to the grants administration framework made in December 2007 applied to the design and implementation of the Strategic Projects component, the changes to the FMA Regulations and introduction of the CGGs occurred after projects had been approved for funding. In this respect, Figure 1.4 provides an overview of the enhancements to the financial framework applying to grants decision that have been progressively made commencing in December 2007 and how these related to the timeframe over which the Strategic Projects component was designed and implemented.

⁸³ This is consistent with Recommendation No. 6 in the ANAO Regional Partnerships Program audit: *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, *Performance Audit of the Regional Partnerships Program*, Volume 1—Summary and Recommendations, Canberra, 15 November 2007, p. 123).

Figure 1.4

Progressive enhancements to the grants administration framework



ANAO Audit Report No.3 2010–11
The Establishment, Implementation and Administration of the
Strategic Projects Component of the Regional and Local Community
Infrastructure Program

Audit objectives and scope

1.41 The audit was undertaken under section 18 of the *Auditor-General Act 1997*. The objective of the audit was to assess whether the Strategic Projects component has been effectively designed and administered, with particular emphasis on:

- whether advice to Government on the design and implementation of the program from DITRDLG and other departments and agencies, was robust and timely;
- whether business practices of DITRDLG meet policy and legislative requirements as well as accountability responsibilities, including best practice grants administration;
- whether the identification of possible projects was undertaken in accordance with the published process;
- the process by which projects were prioritised and subsequently approved for funding;
- whether funding was distributed in an equitable manner based on the comparative merits of competing applications;
- the development and management of funding agreements with funding recipients;
- whether approved projects are monitored, being delivered and subsequently acquitted in accordance with the terms and conditions of funding; and
- progress towards achieving project and program objectives.

Audit methodology

1.42 The Strategic Projects component involves grants of \$2 million or more, up to a total value of \$550 million, to regional communities across Australia. In total, 484 applications were received, with 137 projects subsequently receiving funding from the Australian Government.

1.43 ANAO examined records held by DITRDLG and Finance, as well as the records of relevant Government decisions. ANAO also obtained advice from the Department of the Treasury (Treasury) on the key assumptions made by the Treasury in forecasting the expected impact of stimulus spending from the

Nation Building and Jobs Plan, of which the Strategic Projects component was a part, so as to inform analysis of how the design and implementation of the Strategic Projects component contributed to providing stimulus to the economy.

1.44 Broad analysis was undertaken on all applications, including those projects not approved for funding. In addition, a sample of 28 projects (20 per cent of those approved for funding) was examined in detail.⁸⁴ In light of the key role played by the Minister for Infrastructure, Transport, Regional Development and Local Government and his Office in the assessment of applications and the projects then selected for funding, discussions were held with the Minister's Office.

1.45 In May 2010, audit Issues Papers were provided to the department for any comments on the accuracy and completeness of the information and audit analysis included in them and to obtain departmental views on conclusions reached, as an input to the preparation of the proposed audit report to be issued under Section 19 of the Auditor-General Act. An advance version of the proposed audit report was provided to the department in early June 2010 in order to afford the department a further opportunity to comment prior to issuing the formal proposed report.

1.46 The formal proposed report was issued in June 2010 to DITRDLG and to the Minister for Infrastructure, Transport, Regional Development and Local Government. Relevant extracts of the proposed report were provided to the Department of the Treasury and to various councils mentioned in the proposed report. Written comments were provided by some councils, and they have been incorporated as appropriate in the report. In addition, DITRDLG provided formal comments on the report, which have been reproduced in full.

1.47 The audit was conducted in accordance with ANAO auditing standards at a cost to the ANAO of \$465 000.

⁸⁴ The sample was selected using a random number generator. The sample provided a spread of funding amounts from the minimum funded amount of \$2 million through to the highest funded project under the Program, being the Gold Coast Stadium Redevelopment, with an Australian Government contribution of \$36 million. The sample covered 28 per cent of total Australian Government expenditure under round one of the Strategic Projects component.

2. Program Guidelines

This chapter examines the development and publication of guidelines for the Strategic Projects component.

Background

2.1 As noted in the 2002 version of ANAO's Administration of Grants Better Practice Guide:

Clear, consistent and well-documented program guidelines are an important component of an effective grant program administration system. A single reference source for policy guidance, administrative procedures, appraisal criteria (including the relative importance and weighting), monitoring requirements, evaluation strategies and standard forms helps to ensure consistent and efficient administration.⁸⁵

2.2 The appropriate level of content of grant guidelines will vary depending upon the size, scope and nature of the program. However, it is important that program guidelines address the matters necessary to promote transparent and equitable access to grants (while minimising wasted effort being applied to the submission of proposals that are ineligible or unlikely to be funded) and fully inform the efficient, effective and accountable administration of the program. This would typically involve the guidelines articulating:

- the program's purpose, scope, objectives and desired outcomes;
- the total funding that is available and any limitations on the amount individual applicants will be able to apply for;
- the types of projects that will (and will not) be funded;
- the entities that are eligible to apply for funding, and any that are not eligible;
- the governance arrangements that will apply to the program's administration;

⁸⁵ ANAO Better Practice Guide—*Administration of Grants*, Canberra, May 2002, p. 37.

- the process by which eligible entities will be able to apply to the program, including the information that is required to accompany any application and any deadline for submitting applications;
- the process by which funding recipients will be selected, including specifying all criteria on which funding decisions will be based (including whether there is discretion for criteria to be waived or amended and, if so, how that discretion will be exercised);
- any review or appeal mechanism that will be available to unsuccessful applicants and the processes that will be applied; and
- the terms and conditions that will apply to the provision of a grant, including the reporting and other accountability requirements that funding recipients will be expected to comply with. It is advisable that a copy of the funding agreement for the program accompany the guidelines.

2.3 As outlined at paragraph 1.35, since December 2007, the development, approval (by the Expenditure Review Committee) and publication of program guidelines has been a key aspect of the enhanced grants administration framework.⁸⁶

Originally approved Program Guidelines

2.4 The Program Guidelines for the \$50 million Strategic Projects component of the RLCIP were approved by Cabinet on 12 November 2008. The approved Guidelines:

- provided an overview of the Program;
- included advice on those proponents that were eligible to apply, the types of projects that were eligible and those that were ineligible, and emphasised that incomplete applications would not be considered for funding;

⁸⁶ At the time the Strategic Projects component was introduced, the applicable requirement was specified in the Finance Minister's Instructions of 14 December 2007 which required that: 'Guidelines for any new discretionary grants programs must be considered by the Expenditure Review Committee.'

- advised that the department would undertake a risk analysis of proposed projects, following which it would rank applications under three categories (recommended, not recommended and non-compliant);
- advised that applications ranked by the department as recommended would be provided to the ACLG for its comment, with these comments to be provided to the decision-maker;
- outlined that, following the department's risk assessment and ranking of projects, a decision on funding approval would be sought from the Minister for Infrastructure, Transport, Regional Development and Local Government; and
- provided information on the contracting and funding arrangements that would apply to successful applications.

2.5 However, Guidelines for the Strategic Projects component were not publicly released until 21 November 2008, with the published Guidelines differing in a number of respects to those approved by Cabinet. Departmental records state that these changes had been made at the request of the Minister for Infrastructure, Transport, Regional Development and Local Government. In this respect, on 16 November 2008 the department provided the Minister's Office with advice on suggested changes to the Guidelines to meet the Minister's proposal to bring forward the Program timetable. The Guidelines released on the department's website on 21 November 2008 had been revised to:

- bring forward the date for receipt of applications from 16 February 2009 to 23 December 2008, with the expected date for the announcement of successful projects being brought forward from May 2009 to the end of February 2009⁸⁷;
- remove public toilets and interpretative centres from the types of projects that were eligible for funding;

⁸⁷ The Program Guidelines continued to advise that the department would work with successful proponents to finalise funding agreements within four weeks of project approval—the originally approved 12 November 2008 version of the Guidelines had stated that this would occur 'no later than 30 June 2009', but the revised published Guidelines did not nominate a final date for funding agreements to be signed.

- adjust the items that funding could be used for to include 'site preparation', while removing from eligible activities 'architectural design' and the reference to 'construction related to preparatory work such as necessary engineering and geotechnical studies having to commence within six months of the study outcomes';
- re-word the section on progress reports so that proponents would consider adopting 'appropriate project management arrangements proportionate to the size and nature of the project'; and
- clarify the applicant eligibility requirements to include, as well as all councils, 'groups of councils'.

2.6 Also on 21 November 2008, the department emailed councils to advise them of the Program parameters, as set out in the published Program Guidelines.

2.7 After the Program Guidelines were published, DITRDLG advised its Minister that, while the changes to the Guidelines did not alter the intent of the Program, it was appropriate to formalise the changes with the then Prime Minister by seeking his agreement to the revised Guidelines.⁸⁸ On 10 December 2008, the Minister wrote to the then Prime Minister outlining the changes that had been made to the Guidelines between their approval by Cabinet and their public release. In respect to the purpose of the changes, the then Prime Minister was advised that:

I have made these changes to allow ready-to-proceed projects to commence as soon as possible and to allow for an early stimulus to the economies of local communities. The changes are consistent with the original intent of both sets of Guidelines.⁸⁹

The changes that I have made to the RLCIP-Strategic Projects guidelines include bringing forward the date for receipt of applications by the

⁸⁸ In this respect, in addition to requiring Expenditure Review Committee consideration of guidelines for new grant programs, the CGGs issued in July 2009 require that agencies consult with Finance as to whether changes to guidelines already approved give rise to the need for further Expenditure Review Committee consideration. By way of comparison, the Finance Minister's Instructions of 14 December 2007 (current at the time the Strategic Projects component was established) had been silent as to whether significant changes to program guidelines required Expenditure Review Committee consideration.

⁸⁹ Changes had also been made to guidelines for the Council Allocation component of the RLCIP.

Department of Infrastructure, Transport, Regional Development and Local Government (the department) to 23 December 2008, the expected date to announce successful projects to the end of February 2009 and my department to work with proponents with the aim of finalising the funding agreements within 4 weeks. I have also increased the effectiveness of the stimulus of the RLCIP-Strategic Projects funding by adjusting the definition of eligible projects so that funding can be used only for 'additional stages' of projects that are currently underway⁹⁰ and clarified eligibility to include local councils and 'groups of councils'.

...These changes do not alter the intent of the guidelines agreed by Cabinet. They will ensure that applications from councils can be assessed and funding decisions announced well before the end of this financial year. This will allow councils or local not-for-profits organisations with funding applied for by councils can [*sic*] commence construction of their projects as early as possible and provide an early economic stimulus to their communities.

Revisions to the published guidelines

2.8 One addendum was issued to the Program Guidelines for the Strategic Projects component⁹¹ publicly released on 21 November 2008. The addendum replaced the section relating to the application process to include provision for applications to be lodged via a website.⁹²

2.9 In addition, revised Program Guidelines were published on 13 February 2009, after the Government had decided to increase Program funding by \$500 million to \$550 million and that councils would be given the opportunity to submit new or revised applications. Apart from updating the

⁹⁰ The originally approved Guidelines had stated that: 'an eligible project must be 'ready-to-proceed' (the project must be ready to commence construction within six months of signing the Funding Agreement (contract), or be projects that are currently underway.' Examination of the amended Guidelines shows that the term 'additional' related to both additional stages of projects that are currently underway and that eligible projects must be additional 'ready-to-proceed' projects.

⁹¹ A separate addendum had been issued on 16 December 2008 in relation to the Council Allocation component of the RLCIP.

⁹² The change was necessary to address difficulties councils expected they may have with lodging their applications via email (due to the anticipated large size of application attachments). Specifically, in addition to being able to lodge their applications via mail or email (the two options included in the Guidelines published on 21 November 2008), the department established a website at which applications could be lodged.

Guidelines to reflect the increased Program funding and the re-opening of applications, two substantive changes were made, as follows:

- the section outlining the role the ACLG was to play in the assessment of applications was removed—the Program Guidelines released on 21 November 2008 had envisaged that the ACLG would be consulted on the assessment of applications (see paragraph 2.4); and
- the payment arrangements for approved grants were changed from payment of 100 per cent of approved funds upon signing of a funding agreement to funding agreements being structured to schedule the release of between 25 per cent and 50 per cent of funds upon signature, depending on the funding amount, with further payments being linked to milestones (see further at paragraphs 7.40 to 7.48).

2.10 Otherwise, consistent with the Minister’s public announcement that the existing guidelines would continue to apply (see paragraph 1.32), there were no changes made to the guidance on application eligibility and compliance requirements, or the approach the department would take to undertaking risk assessments of applications.⁹³

Companion document to the published guidelines

2.11 In addition to the Program Guidelines, DITRDLG developed a document entitled ‘Frequently Asked Questions’. This document was expected to be read in conjunction with the Guidelines as it was intended to provide information on the Program’s objectives and timeframes and an overview of the submission and approval processes. It also provided examples of the types of projects for which funds could be used. The document was first released on 16 December 2008, and was re-published on 19 December 2008.

2.12 A revised Frequently Asked Questions document was published on 16 February 2009 to reflect the increased Program funding and re-opening of applications. A further revision to the document was released on 23 March 2009, to reflect that applications had closed.

⁹³ The Hon Anthony Albanese MP, Media Release, AA28/2009, op. cit., 13 February 2009.

Program objectives and assessment criteria

2.13 The criteria that are to be applied in determining the funding recipients under a grant program are the key link between the program's stated objectives⁹⁴ and the outcomes that are subsequently achieved from the funding provided. Particularly where competitive funding rounds are utilised, setting out the assessment criteria in the program guidelines:

- assists to attract good potential funding recipients to apply to the program and encouraging entities that are unlikely to be successful not to invest unnecessary resources in preparing an application; and
- contributes to the conduct of an efficient, effective, transparent and accountable means of differentiating between eligible, compliant applications that are competing for the available funding.

2.14 The extant grants administration policy requirements at the time the Strategic Projects component was introduced were set out in the Finance Minister's Instructions of 14 December 2007. These Instructions required that the guidelines for any new discretionary grant programs be considered by the Expenditure Review Committee of Cabinet. They further stated that:

Ministers should not make any decisions on discretionary grants without first receiving departmental advice on the merits of the grant application relative to the guidelines for that grants program.

2.15 The subsequent report of the Strategic Review of Grants of 31 July 2008 emphasised the importance of assessment criteria being developed as part of program design and published in the program guidelines. The Strategic Review's conclusions were consistent with various reviews of the administration of discretionary grant programs, including Parliamentary Committee inquiries and reviews and ANAO performance audits, which had

⁹⁴ The 18 November 2008 Ministerial media release announcing the RLCIP stated that it would 'boost local economic development and support jobs in communities around the country' with the Program Guidelines stating that funding was being made available under the Strategic Projects component 'to stimulate additional growth and economic activity across Australia as part of the Australian Government's contribution to addressing the global economic crisis.' Similarly, on 23 April 2009, the Minister stated that the objectives were to create local jobs and stimulate local economies in the short term and medium term. Source: The Hon Kevin Rudd MP, Prime Minister and The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Press Conference—City of Swan*, 23 April 2009.

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.

2.16 Similarly, ANAO's May 2002 Administration of Grants Better Practice Guide suggested that eligibility and assessment criteria should be set out in the guidelines established for the program.⁹⁵ This is because establishment and promulgation of assessment criteria can assist programs to target those applications that are most likely to contribute to the program objectives, as well as assisting in ensuring accountability and equity in the treatment of applicants, and in avoiding perceptions of bias or political interference.⁹⁶

2.17 Of direct relevance to the Strategic Projects component of the RLCIP, in its November 2008 Interim Report the House Standing Committee commented that:

Contributors to the inquiry have suggested that, under the former [*Regional Partnerships*] program, it was difficult for applicants, [*Area Consultative Committees* (ACCs)], or even departmental staff to establish a clear sense of assessment criteria. Rather, grant applicants had the sense that 'goal posts were being shifted', and ACCs perceived a need to 'seek inside information' to gain a sense of program priorities at any given time. This situation, which appears to have been a product of insufficient communication, combined with ways in which ministerial discretion was exercised, is said to have contributed to perceptions of political bias in the administration of the program.

In the Committee's view, this underscores the importance of clear and effective dissemination of assessment criteria for the new program, amongst applicants to the program and staff of the administering department.⁹⁷

2.18 Accordingly, the House Standing Committee recommended⁹⁸ that, for the proposed new regional and local community infrastructure program, key

⁹⁵ ANAO Better Practice Guide—*Administration of Grants*, Canberra, May 2002, p. 37.

⁹⁶ ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, op. cit., p. 59.

⁹⁷ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Proposals for the new Regional and Local Community Infrastructure Program*, Interim Report, November 2008, p. 52.

⁹⁸ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Proposals for the new Regional and Local Community Infrastructure Program*, Interim Report, November 2008, Recommendation 22, p. 56.

assessment criteria should be defined ‘in the clearest possible way’ and that the department ensure that ‘applicants and departmental staff are aware of these criteria’.

2.19 The report of the Strategic Review of Grants and the House Standing Committee’s Interim Report were both available to the department at the time the Program Guidelines for the Strategic Projects component of RLCIP were being developed.

2.20 Including the assessment criteria that were to be applied in selecting funding recipients under the Strategic Projects component in the published Program Guidelines was necessary in order to meet the requirement under the December 2007 Finance Minister’s Instructions that the department provide its Minister with advice on the merits of each grant application relative to the Program Guidelines prior to the Minister making any funding decisions (see paragraph 2.14). Clearly defining the program’s selection criteria in the Program Guidelines and departmental assessment procedures would have also been consistent with the House Standing Committee’s recommendation (see paragraph 2.18), noting that the Committee reported that it had produced the Interim Report as a means of assisting the Government in its decision-making process in relation to bringing forward the establishment of a new regional and local community infrastructure program as part of the response to the global financial crisis (see paragraph 1.9).⁹⁹

Development and publication of assessment criteria

2.21 Consistent with the requirement outlined in the Finance Minister’s Instructions of 14 December 2007 that Ministers receive departmental advice on the merits of grant applications relative to program guidelines prior to making funding decisions, the Program Guidelines for the Strategic Projects component of the RLCIP approved by the Government on 12 November 2008, as well as the revised Guidelines publicly released on 21 November 2008, stated that:

⁹⁹ *ibid.*, pp. vii–viii.

Projects will be allocated funding on a nationally competitive basis and will be assessed by the Department of Infrastructure, Transport, Regional Development and Local Government (the Department) on a tight timetable.

2.22 The published Guidelines further stated that the department would rank applications under three categories of 'recommended', 'not recommended' or 'non-compliant'.

2.23 Identical guidance was included in each subsequent version of the Program Guidelines. In addition, on 3 December 2008, the Minister wrote to councils advising them of the RLCIP. Councils were asked to:

Please note that funding will only be released for projects that meet the requirements of the RLCIP Guidelines.

2.24 In respect to the assessment of applications under the Strategic Projects component, both the Program Guidelines approved by the Government on 12 November 2008 and the revised Guidelines publicly released on 21 November 2008 stated that the department would undertake a risk analysis of applications, rank them (as recommended, not recommended or non-compliant) and that those ranked as recommended would be provided to the ACLG for its comment.¹⁰⁰ However, neither the Program Guidelines approved by the Government on 12 November 2008 nor the revised Guidelines publicly released on 21 November 2008 outlined the criteria that would be applied by the department in ranking applications for Ministerial funding consideration. The only guidance in this respect was a statement that:

Larger projects and those that included partnership funding would be given preference.

2.25 However, no assessment criteria were established at the time the Strategic Projects component was announced, such that the Program Guidelines published on 21 November 2008 did not advise councils of the criteria that would be used to develop a ranked list of eligible applications. As illustrated by Figure 2.1 prioritisation criteria were established on 28 January 2009, and shortlisting criteria were established on 9 February 2009 and again on 19 March 2009. As outlined in Chapters 4 and 5, the prioritisation criteria

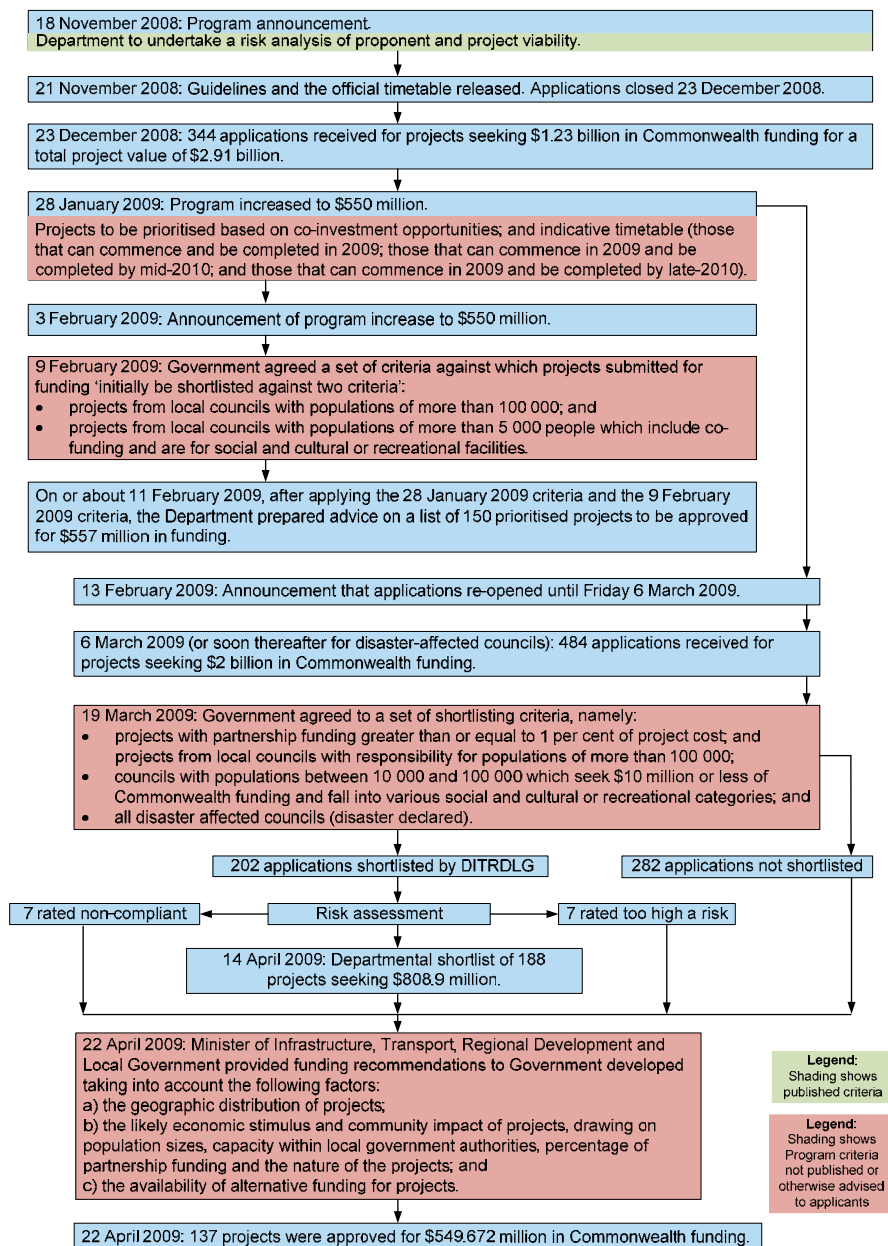
¹⁰⁰ Later versions, including the final version, of the guidelines provided reduced information on the department's risk analysis role and deleted reference to comments being sought from the ACLG.

were not applied and the shortlisting criteria were used to identify those applications that would be subject to a risk assessment, not to identify those applications that would be awarded funding. In this latter respect, it was not until 22 April 2009, at the same time as putting forward those projects that were recommended for funding approval, that assessment criteria were documented. In this context, in June 2010 the department advised ANAO that:

The program was implemented during the global economic crisis and the Government's response to the emerging crisis. Between September 2008 and the 2009 Budget, the Government dealt with an unfolding global and economic crisis which required senior Ministers to re-consider and adjust policy and program settings as the impacts of the crisis became clearer. This included considering projects which would not only provide an immediate economic stimulus but also provide community infrastructure investment for the recovery post 2010–11. The program changed significantly as the Government, through successive consideration of stimulus measures, expanded the program from \$50 million to \$550 million and adapted the timeframes and approach to assessment and delivery of the program.

Figure 2.1

Approval process map for the Strategic Projects component



3. Checking application eligibility and compliance with Program Guidelines

This chapter outlines the guidance included in the published Program Guidelines on applicant and project eligibility and other threshold requirements an application needed to meet in order to be considered for funding, and examines the approaches taken to checking whether applications were eligible and compliant in respect to the published Guidelines.

Introduction

3.1 It has been common for grant programs to operate through competitive funding rounds which open and close to applications on nominated dates, with eligible applications received by the closing date being assessed against the selection criteria set down for the program and then to prioritise or rank competing, eligible applications in terms of the available funding.¹⁰¹ A merit-based, competitive funding round approach offers advantages such as:

- certainty of timeframes for applicants (which is important for project planning and viability) and agencies (which is important for effective resource management); and
- a transparent and reliable method of selecting successful applicants through a process of ranking competing eligible applications based on their relative performance against the published assessment criteria.

3.2 In this context, it is important that the grants administration function itself provides value, as should the selection of grant recipients to deliver grant outcomes.¹⁰² In that context, there are options for assigning various levels of decision-making authority to officials that can be canvassed with Ministers, as

¹⁰¹ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Proposals for the new Regional and Local Community Infrastructure Program*, Interim Report, November 2008, p. 48 and *Funding regional and local community infrastructure: Principles for the development of a regional and local community infrastructure funding program*, Final Report, June 2009, p. 17.

¹⁰² Department of Finance and Deregulation, *Commonwealth Grant Guidelines—Policies and Principles for Grants Administration*, Financial Management Guidance No. 23, July 2009, p. 30.

appropriate, as a means of improving the efficiency and cost-effectiveness of program administration.

3.3 Where Ministers exercise their preference to retain the role of substantive decision-maker for a grant program (as was the case for the Strategic Projects component of the RLCIP), there is merit in agencies seeking Ministerial consideration of measures that may assist in improving the cost-effectiveness of program administration. Depending upon the nature of the grant program, there are various options that can be canvassed with the relevant Minister that seek to reduce the need to apply significant resources to the assessment of ineligible or poor quality applications, while allowing the Minister to retain the capacity to determine which compliant applications will be awarded funding, the amount of funding awarded and any conditions that are to be attached. For grant programs like the Strategic Projects component, this could involve:

- agency officials being given authority to exclude demonstrably ineligible applications from further consideration, without the need for referral to the Minister for a final decision; and/or
- the Minister instructing the agency that only those eligible applications that are assessed as meeting the assessment criteria to a high standard overall are submitted for the Minister's consideration, with the remaining applicants being advised by the agency that they were unsuccessful.

Establishment and publication of threshold criteria

3.4 The importance of grant program guidelines clearly identifying any threshold requirements that must be satisfied in order for an application to be considered for funding is well recognised. For example, in his recent reports on executive schemes,¹⁰³ the Commonwealth Ombudsman has noted that if

¹⁰³ See, for example, Report by the Commonwealth Ombudsman, Prof. John McMillan, under the *Ombudsman Act 1976*, Report No.12 2009, *Executive Schemes*, Canberra, August 2009; 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; and Report by the Acting Commonwealth Ombudsman, Ron Brent, under the *Ombudsman Act 1976*, Report No. 5 2010, *Department of Innovation, Industry, Science and Research—Administration of the Liquefied Petroleum Gas (LPG) Vehicle Scheme*, April 2010.

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.¹⁰⁴ Specifically in relation to eligibility criteria, the Ombudsman has commented that:

Public awareness of the existence of executive schemes and the rules that apply from time to time can also be a problem...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.¹⁰⁵

3.5 Well-constructed eligibility criteria are straightforward, easily understood and effectively communicated to potential applicants, and it is better practice for the guidelines to clearly state that applications that do not satisfy all threshold criteria will not be considered. This helps to reduce frustration and unnecessary costs by assisting potential applicants to avoid developing and submitting applications that are ineligible or have little chance of success. It also promotes fairness and equity by guarding against situations where eligibility criteria are waived for some applicants, but not for others.

3.6 Each version of the published Program Guidelines for the first funding round of the Strategic Projects component of the RLCIP included clear and, in most respects, consistent guidance on applicant and project eligibility, as well as other threshold requirements an application needed to meet in order to be considered for funding.

Identification of the types of applicants that were eligible to apply

3.7 The Program Guidelines endorsed by Cabinet on 12 November 2008 stated that:

¹⁰⁴ *Executive Schemes*, op. cit., pp. 5–6.

¹⁰⁵ *ibid.*, p. 1.

All local councils are eligible to apply for funds under RLCIP—Strategic Projects. Local councils may also apply on behalf of local not-for-profit organisations.¹⁰⁶

3.8 The revised Guidelines published on 21 November 2008 included similar applicant eligibility advice as above, but also identified ‘groups of councils’ as being eligible to apply. The guidance on applicant eligibility was not changed in the 19 December 2008 addendum. In addition, the applicant eligibility guidance did not change in the 13 February 2009 version of the Guidelines (issued after Program funding was increased from \$50 million to \$550 million).

Councils were limited to one application each, but could also apply once as a part of a group of councils

3.9 As noted, the Program Guidelines first published on 21 November 2008 stated that all councils, or groups of councils, were eligible to apply for funds; and that councils could also apply on behalf of local not-for-profit organisations. While the Guidelines referred to a singular ‘project’ or ‘application’, in no version of the Guidelines was there any mention of the number of applications allowed to be submitted by each eligible entity.¹⁰⁷

3.10 Rather, the restriction on the number of applications councils could submit was set out in the companion Frequently Asked Questions document. Each version of that document set out the restriction that each council could only submit one application in their own right and, in addition, could apply once as part of a group of councils. This document also explained that funding was available for ‘single projects only’ and that each application should be for ‘one project’.

3.11 When applications were re-opened on 13 February 2009, specific instructions to proponents were provided as to how the process would occur. For example, the Minister’s media release stated:

¹⁰⁶ Identical guidance was included in the Frequently Asked Questions document released on 19 December 2008.

¹⁰⁷ By way of comparison, the *Guidelines Regional and Local Community Infrastructure Program—Strategic Projects Round 2 2009–10 \$120 Millions Version 2.1*, explicitly state: ‘the maximum total of applications per Council is two: one application per Council and one as a participant in a group application. Local Governments may apply on behalf of local not-for-profit organisations’.

Councils and shires will have until **4pm AEDST, Friday 6 March 2009** to submit new or revised applications. Interested local governments must do one of the following:

- Advise my Department that they wish to continue with their existing applications;
- Submit a new application for a new project; or
- Revise their existing application and resubmit within the deadline.¹⁰⁸
[emphasis as per original]

3.12 The Minister's press release also stated that: 'Applications are limited only to local governments, and only one application per council'.

3.13 In addition to the media release, on 13 February 2009 the department emailed local government Chief Executive Officers and nominated executives advising that an additional \$500 million had been made available to the Program and that the Program was being reopene/d for three weeks 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. In this correspondence, the department stated:

All original applicants have three options. They can:

- reconsider their application and submit an updated version;
- submit a new application for a new project; or
- retain their original application within the process. If a new or updated application is not received, their original application will still be considered.

The Department of Infrastructure, Transport, Regional Development and Local Government will accept one application per council and one application per group of councils.

All applications will be required to satisfy the original Program Guidelines...

Specification of the types of projects that were eligible for funding

3.14 Each version of the Program Guidelines (with some minor changes) included clear guidance on what activities could be funded under the Program

¹⁰⁸ The Hon Anthony Albanese MP, Media Release, AA28/2009, op. cit., 13 February 2009.

(together with the types of projects that could be funded), as well as activities that were not eligible for funding, as follows:

2.1 What can the funding be spent on?

RLCIP – Strategic Projects will provide funding for community infrastructure including new and major renovations or refurbishments such as:

- social and cultural infrastructure (e.g. art spaces, gardens);
- recreational facilities (e.g. swimming pools, sports stadiums);
- tourism infrastructure (e.g. walkways, tourism information centres);
- children, youth and seniors facilities (e.g. playgroup centres, senior citizens' centres);
- access facilities (e.g. boat ramps, footbridges); and
- environmental initiatives (e.g. drain and sewerage upgrades, recycling plants).

Projects that can be funded need to be consistent with the attached list at Annexure A.

Funding can be used for:

- construction or fit out;
- preparatory work such as necessary engineering and geotechnical studies;
- land surveys and site preparation; and
- project management costs.

What will not be funded?

Funding will not be available for activities such as ongoing costs (e.g. operational costs and maintenance), transport infrastructure, such as roads, or related infrastructure covered by the Roads to Recovery or Black Spots programs.

Projects were required to be 'ready to proceed'

3.15 Having regard for the objective of achieving economic stimulus (see paragraph 2.7), both the Program Guidelines and Frequently Asked Questions document published in relation to the Strategic Projects component of the RLCIP stated that:

Eligible projects must be additional and 'ready to proceed' (the project must be ready to commence construction within six months of signing the Funding Agreement (contract)), or be additional stages of projects that are currently underway.¹⁰⁹

3.16 Across the range of economic stimulus measures that involved spending on infrastructure projects, it was similarly common for program governance arrangements to emphasise timely commencement of construction activity. For example, in respect to the Primary Schools for the 21st Century element of the Building the Education Revolution Program (BER P21):

The Government decision included clear requirements for BER P21 construction commencement, by funding round. Round 1 projects would commence construction by end June 2009 at the latest; Round 2 projects would commence construction by October 2009; and Round 3 projects would commence construction by February 2010. Subsequently, the National Partnership Agreement with the States and Territories set more ambitious targets: Rounds 2 and 3 projects were expected to commence no later than 31 August 2009 and 1 December 2009 respectively.¹¹⁰

3.17 There were also established timeframes for the completion of BER P21 projects. Specifically, projects in smaller schools were to be completed within seven months and projects undertaken by larger schools were to be completed within 18 months.¹¹¹ Under these arrangements, all funded projects were to be completed by 31 March 2011.¹¹²

3.18 As noted at paragraph 1.29, the \$42 billion Nation Building and Jobs Plan included BER P21 and substantial additional funding for the RLCIP such that timely commencement and completion of construction was similarly important in the development and implementation of both programs. This was reflected, for example, in the then Prime Minister's 2 February 2009¹¹³ approval

¹⁰⁹ Similarly, the 21 November 2008 advice from DITRD LG to councils in relation to the Strategic Projects component of the RLCIP (see paragraph 2.6) had stated that: 'Eligible projects must be 'ready to proceed' (the project must be ready to commence construction within six months of signing the Funding Agreement [contract]), or may be additional stages to projects that are currently underway.'

¹¹⁰ ANAO Audit Report No. 33, 2009–10, *Building the Education Revolution—Primary Schools for the 21st Century*, Canberra, 5 May 2010, paragraph 3.28.

¹¹¹ *ibid.*, paragraph 1.24.

¹¹² *ibid.*, Figure 1.7.

¹¹³ See paragraph 1.28.

of an extra \$500 million in funding for the RLCIP (as part of the Nation Building and Jobs Plan) wherein the then Prime Minister stated that:

As specified in the [Government] decision of 28 January 2009, priority is to be given to projects that can proceed quickly and for which co-investment from councils and other partners, such as State and Territory governments, is proposed.

...I ask that you put in place robust arrangements for acquitting and monitoring the program to ensure that there is a focus on achieving value for money while supporting the rapid implementation of the approved projects.
[ANAO emphasis]

3.19 Consistent with the then Prime Minister's request, the revised Program Guidelines issued on 13 February 2009 to reflect the additional Strategic Projects component funding and associated re-opening of applications continued to state that:

Eligible projects must be additional 'ready to proceed' (the project must be ready to commence construction within six months of signing the Funding Agreement (contract)), or be additional stages of projects that are currently underway. *[emphasis as per original]*

Incomplete applications would not be considered for funding

3.20 In order to achieve the economic stimulus objectives of the Program and the parameters reinforced by the then Prime Minister when increasing the Program funding, projects needed to be sufficiently well developed (as demonstrated through the project application) to enable them to be able to commence and be completed in a relatively short period of time (less than 18 months).

3.21 In this respect, the Program Guidelines released on 21 November 2008 stated that:

Incomplete applications will not be considered for funding.

3.22 The department's advice to councils of 21 November 2008 (see paragraph 2.6) similarly stated that:

Completed applications must be received by the Department by 4pm (Australian Eastern Daylight Saving Time) on 23 December 2008.

Incomplete application forms will not be considered for funding. *[emphasis as per original]*

3.23 The addendum to the Program Guidelines released on 19 December 2008 replaced the section relating to the application process to include provision for applications to be lodged via a website, but continued to:

- require that a final and complete application be submitted by 4:00pm (Australian Eastern Daylight Saving Time) on 23 December 2008; and
- emphasise that ‘incomplete applications will not be considered for funding’.

3.24 The requirement for a complete application to be submitted was also reinforced in the updated Frequently Asked Questions document released on 19 December 2008. Specifically, it relevantly advised that:

- in relation to the Program timeline: ‘...A final and complete application form must be received by...’;
- in respect to how many applications could be submitted: ‘...Applications should be for one project and councils must be able to provide documentation such as a feasibility study, project plan, project cash flow projections, cost estimates and business plan with the application’;
- in circumstances where councils could not meet the timing to return the application form or provide all supporting information: ‘Incomplete or late applications will not be considered for funding’; and
- in relation to where applications should be sent: ‘Application forms including all attachments in Question 16 and a signed copy of Item F – Declaration can be sent in hard copy to...’ and ‘A complete application must be received by the Department...’ and ‘Failure to lodge a completed application...will result in the application not being considered’.¹¹⁴

3.25 The expectation of what would be considered to represent a complete application, and that incomplete applications would not be considered for funding, was highlighted in advice provided to the Minister by the department in December 2008. Specifically, the Minister was advised that a risk in bringing

¹¹⁴ Similar guidance was provided in the subsequent 16 February 2009 and 23 March 2009 versions of the Frequently Asked Questions document.

forward the closing date for applications (see paragraph 2.5) such that councils would now have slightly less than five weeks to develop and deliver applications to the department was that:

...some councils will be unable to meet the deadline for applications or that a significant proportion of applications may be incomplete and will therefore not be considered for funding. A complete application would need to answer all questions on the application and attach all required documentation needed to demonstrate the viability of the proposed projects, such as recent business plans, feasibility studies, detailed project plans and project costs.¹¹⁵ (ANAO *emphasis*)

Checking of responses to the initial application round

Scrutiny to identify ineligible and non-compliant applications

3.26 It is important that eligibility and other mandatory criteria advised to potential applicants be transparently and consistently applied in the assessment process. Accordingly, it is advisable to confirm the compliance of each application with those criteria as the first stage of the assessment process. This aids the efficiency of program administration because, in the interests of probity and fairness, non-compliant applications should be clearly identified as ineligible and excluded from further consideration.

3.27 Further in these respects, it is not appropriate for the failure of a proposal to satisfy a criterion expressed in the program guidelines as representing a threshold requirement to be presented as only reducing the overall quality of the proposal or as presenting a risk that would need to be managed should the proposal be selected for funding. Nor is it advisable for applications that have not satisfied mandatory requirements set out in the

¹¹⁵ In relation to the risk of delays in projects, DITRDLG's March 2008 advice on the implementation of the Government's 2007 Federal election commitments had previously advised the Minister that:

- the major reason for the delays in implementation of the [*former Government's*] 2004 election commitments was that projects were underdeveloped necessitating development of business plans;
- some election commitments required Federal and State Government statutory approvals (such as Development, Building, Heritage and Environment approvals) which caused major delays in commencement of projects following Ministerial approval; and
- inadequate costings, inadequate quotes, increased building costs, amendments to the scope of the projects, and requests for further funding from the proponents, were features which caused delay in some projects.

guidelines to be assessed and recommended for funding on the condition they subsequently satisfy the mandatory requirement. This is because such practices have been found to cause reputational damage to grant programs which, in turn, can adversely affect whether the desired program outcomes are able to be achieved. In addition, an approach of that nature would:

- not accord fairness to other potential funding recipients, including those who may have chosen not to apply to the program on the basis of the information set out in the published guidelines; and
- diminish the capacity to demonstrate that all applicants have been consistently and equitably treated in the assessment process.

3.28 Against this background, consistent with the advice in the published Program Guidelines for the first funding round of the Strategic Projects component that incomplete applications would not be considered for funding, the department's internal procedures manual for managing the Program established a clear process for assessing the completeness of applications. Specifically, as part of the application and supporting documentation process, applications were to be assessed for completeness against a 'Document Compliance Checklist'. This checklist specifically addressed whether each application as submitted was complete and that supporting documentation such as a cost estimate and/or quotation for products or services in the project; a feasibility study; a business plan with cash flow projections and a detailed project plan, were provided.

3.29 In addition, ANAO's examination of project records showed that a second checklist (described as 'Cull Stage 2 checklists') regarding project eligibility had also been completed in respect to applications received in response to the initial round. The second checklist specifically addressed whether the project proposed in an application was:

- an eligible activity under the Program Guidelines;
- additional or an additional stage of a project already underway; and
- ready to begin construction within six months of signing a funding agreement, as required under the published Guidelines (see paragraphs 3.14 and 3.15).

3.30 Whilst sound in principle, ANAO's examination of completed Cull Stage 2 checklists on file highlighted variability in the quality of the

department's completion of the checklists, including the accuracy with which the eligibility assessments reflected the information provided by applicants.

Checking of responses to the re-opened application round

3.31 As noted previously, the 3 February 2009 announcement of the Nation Building and Jobs Plan included an additional \$500 million of funding for the Strategic Projects component of the RLCIP, with applications being re-opened. The revised Program Guidelines and Frequently Asked Questions document published for the re-opened round included no substantive changes in respect to the published threshold (eligibility and compliance) criteria.

Change in approach to assessing eligibility and compliance criteria

3.32 As outlined at paragraphs 3.26 to 3.30, prior to the re-opening of applications, the department had developed and commenced applying procedures to scrutinise applications submitted in response to the initial call for applications. The matters being assessed by the department included whether:

- the application had been submitted by an eligible applicant, being a council, group of councils, or by a council on behalf of a local not-for-profit organisation;
- the application was for an eligible project, as defined in the Program Guidelines and Frequently Asked Questions document;
- the application had been submitted on time;
- the application was for the first project applied for or a group project with one or more other council's; and
- the project was likely to provide an economic stimulus in that it was ready to commence construction within six months of the Funding Agreement being signed, or was an additional stage or stages of a project that was already underway.

3.33 These procedures were still set out in the latest version of the department's Strategic Projects component procedures manual (October 2009) provided to ANAO during the course of the audit. In addition, no substantive changes had been made to the published Program Guidelines or otherwise advised to potential applicants to identify that projects would no longer be

scrutinised in terms of being complete and eligible for funding in accordance with the criteria set down in the published Guidelines.

3.34 However, at its 28 January 2009 meeting the Strategic Priorities and Budget Committee of Cabinet requested that the department reconsider the 100 applications to the initial round that had preliminarily been assessed as not meeting the Program Guidelines. This request was made in light of the Committee's predisposition to increase the quantum of funding available for the Program.

3.35 Nevertheless, ANAO analysis indicated that, at least initially, the department took steps to scrutinise applications to the re-opened application round against the eligibility and compliance checking regime. In particular, a new compliance checking sheet was developed after Program funding was increased by \$500 million and applications were re-opened. The revised cull sheet combined the previous two forms, however, three key elements were either changed or removed, namely:

- the original checking sheet listed each of the documents required to be attached to an application in order for it to be compliant with the Program Guidelines. This was changed to a one line item which asked the assessor to consider: 'Is the application form substantially completed and attachments supplied'; and
- despite relating to mandatory criteria set out in the Guidelines (see paragraph 3.15), the following questions were removed from the eligibility assessment:
 - 'Is the project is additional or an additional stage of a project that is currently underway?'; and
 - 'Is the project ready to commence construction within six months of signing the Funding Agreement (contract)?'

3.36 However, the revised, combined checklist was not completed for a significant proportion of the revised and new applications submitted to the re-opened round examined by ANAO. In April 2010, the department advised ANAO that:

Internal departmental assessment procedures for the RLCIP—Strategic Projects applications changed as a result of the announcement that an additional \$500 million was made available to the Program on 28 January 2009,

and then again with the Cabinet Decision to apply shortlisting criteria on 19 March 2009.

Checklists that were begun by the Department as part of the internal departmental assessment procedures were not completed for all projects and were replaced with filtering processes and Independent Viability Assessments to accommodate the above changes.

The Cull checklists used for the RLCIP—Strategic Projects \$50 million round assessed projects for Application Compliance (Stage 1 Checklist) and Project Eligibility (Stage 2 Checklist). This process was terminated with the announcement of increase in program funding to \$550 million on 28 January 2009. All projects which had undergone the checks before this date have a copy of checklists on file.

The new checklist for RLCIP—Strategic Projects \$550 million was applied until the process again changed with the Cabinet Decision of 19 March 2009. The second checklist had not been used as a cull but simply to ascertain some items of eligibility against the Guidelines and compliance with the application requirements. There were very few projects checked against this second checklist before the process changed. Those projects which had undergone the checks have a copy of the checklist on file.

As a result [of the] 19 March 2009 Cabinet Decision projects were filtered according to the shortlisting criteria. This process also examined project risks, and checked for eligibility against the Guidelines. This process had five stages:

1. Receipt of application by the Department on time.

- Determined at time of receipt—all projects were received on time with the exception of Disaster Declared areas.¹¹⁶

2. Eligibility of Councils applying.

- Councils listed under the \$250 million allocations were the only councils eligible to apply. The database enabled ineligible applicants to be identified.

3. Shortlisting Criteria from 19 March 2009 Cabinet Decision.

- The shortlisting criteria were applied to all 484 projects resulting in 202 projects that met the Cabinet criteria.

¹¹⁶ See further at paragraph 4.6.

4. Independent Viability Assessments were conducted on all 202 shortlisted projects to determine project sustainability and project financial viability. Concurrent with this the department conducted Corporate and Personnel and Grant Management capability assessments on all 202 shortlisted projects.

5. Briefs were prepared for the Minister on each of the 202 shortlisted projects incorporating findings from the results of the Independent Viability Assessment, Departmental assessments and Guideline eligibility.

The final result was 188 projects which met the Guidelines and were recommended for consideration by the Minister for submission to Cabinet. Seven (7) projects were not recommended for funding and 7 projects were found to be ineligible or non-compliant. Spreadsheets of results for all 484 project applications were provided for Cabinet consideration.

3.37 The various eligibility and compliance criteria were set out in published Program Guidelines that had been approved by Cabinet and, in one instance, Ministers explicitly decided to waive the project eligibility criteria for one particular application they wished to fund.¹¹⁷ In this respect, the Strategic Review of Grants which reported in July 2008 had observed that potential applicants and other stakeholders have a right to expect that program funding decisions will be made in a manner, and on a basis, consistent with the published program guidelines and selection documentation.¹¹⁸ A similar observation had been made by ANAO in the audit report on the predecessor Regional Partnerships program.¹¹⁹

Funding of ineligible and non-compliant applications

3.38 For the Strategic Projects component of the RLCIP, as outlined above, procedures had originally been developed to identify non-compliant and ineligible applications. Further in this respect, the department had prepared

¹¹⁷ The approved project was Etheridge Shire Council's application for the full \$18 million estimated cost of replacing the Einasleigh River Bridge on Gulf Development Road. The project was for a roads project although the published Guidelines had identified roads projects as not being eligible for funding under the Program. In making his recommendations about which projects should be approved for funding, the Minister had outlined reasons for waiving the project eligibility criteria in respect to this application.

¹¹⁸ Mr Peter Grant PSM, *Strategic Review of the Administration of Australian Government Grant Programs*, 31 July 2008, p. 56.

¹¹⁹ ANAO Audit Report No. 14 2007–08, *Performance Audit of the Regional Partnerships Program*, Volume 1—Summary and Recommendations, Canberra, 15 November 2007, p. 21.

proforma letters for it to send to applicants advising that non-compliant applications 'cannot be considered by the department for assessment' and identifying to the applicant whether the application was non-compliant because:

- it was received after the deadline specified in the Program Guidelines;
- the application was incomplete;
- the project did not meet the eligibility criteria set out in the Program Guidelines; and/or
- an assessment of the project information had identified risks that were considered unacceptable.

3.39 However, this approach was not implemented and, as noted at paragraph 3.36, the original compliance process was abandoned part way through assessment and was not replaced with an alternative, systematic consideration of application eligibility. In June 2010, the department informed ANAO that this reflected the changing nature of the Government's consideration of the most appropriate means of dealing with the emerging pressures of the global financial crisis. Nevertheless, the changed approach meant that, rather than ineligible and incomplete applications being excluded from further consideration:

- all applications received were considered as to whether they should be shortlisted to undergo a risk assessment by the department, based on shortlisting criteria agreed by Cabinet on 19 March 2009 (see Figure 2.1 and Chapter 4 for the application of these criteria and conduct of risk assessments), without any prior comprehensive review having been undertaken of applications in terms of their compliance with, and eligibility under, the published Program Guidelines.¹²⁰ As a result, 143 (71 per cent) of the 202 projects shortlisted for risk assessment by the department based on the shortlisting criteria agreed by Cabinet on 19 March 2009 were ineligible and/or non-compliant in terms of the

¹²⁰ In particular, whilst two important but relatively straightforward aspects were examined (whether the applicant was a council, and whether the application had been submitted by the due date and time), the range of other eligibility and compliance matters set out in the Program Guidelines and Frequently Asked Questions document outlined at paragraphs 3.7 to 3.25 were not specifically examined.

published Program Guidelines.¹²¹ The remaining 59 shortlisted projects seeking \$271.8 million were, based on the department's analysis, eligible and compliant; and

- the only substantive opportunity for the department to identify shortlisted applications that did not meet the threshold criteria set out in the Guidelines was where such issues were identified incidental to the risk assessment process conducted in respect to shortlisted applications (which is examined in the next chapter).¹²²

3.40 Risk assessment processes have a different focus than do eligibility and compliance checking processes. Accordingly, it is unsurprising that the risk assessments identified a small number (seven) of non-compliant/ineligible applications amongst those shortlisted, but overlooked a large number of other non-compliant/ineligible projects. In one instance,¹²³ Ministers made an explicit decision to approve an application that was known to be otherwise ineligible under the Guidelines that had been approved for the Strategic Projects component, but, in another 90 instances, approved non-compliant and/or ineligible projects without being made aware of this by the department.

3.41 Noting that, in the majority of instances, there was no evidence that Ministers were aware that a high proportion of projects approved for funding were ineligible and/or non-compliant, there was no observable trend for the funding of ineligible and/or non-compliant applications to favour electorates held by one political party over another. The more significant issue relates to the risk that there were councils who submitted eligible, complying

¹²¹ There was a further project not shortlisted but which was later subjected, at the request of the Minister, to a risk assessment which the department should have identified as being ineligible. As noted in paragraph 3.10, the Frequently Asked Questions document explained that funding was available for 'single projects only' and that applications should be for 'one project'. However, the group application submitted by Coolamon Shire Council entitled 'Creating and Enhancing Community Meeting Places in the Eastern Riverina' comprised 12 separate projects spread over six local government areas. Six of the proposed projects were new construction and six were to be major upgrades and refurbishments of existing community meeting facilities. Analysis of the four other approved group applications showed this example to be the only approved group application containing multiple projects.

¹²² As outlined at paragraph 3.36, the department advised ANAO in April 2010 that those eligibility checklists that had been completed were placed on the file for the relevant application. However, whilst included in departmental records, the completed checklists were not taken into account in the risk assessment process (for example, they were not provided to the Independent Viability Assessment providers, who were responsible for assessing project deliverability and sustainability risks).

¹²³ See footnote 117.

applications having regard to the published Program Guidelines, but which were excluded from having their applications fully considered for funding due to the application of unpublished shortlisting criteria that were not settled until after applications had closed (see further at paragraphs 4.5 to 4.7).

3.42 The above circumstances emphasise one of the key risks involved in not undertaking eligibility and compliance checks prior to assessing projects in terms of their relative merits. More specifically, undertaking eligibility and compliance checks as the first stage in the application assessment process means that:

- only those applications seen as being compliant with all threshold requirements actually progress to a full assessment; and
- all eligible and compliant applications are given an equal opportunity to compete for the available funding.

3.43 In addition, advising potential applicants that the originally proposed threshold criteria will not be systematically applied promotes greater transparency and equity. In respect to the Strategic Projects component, one council had written to the Minister in February 2009 advising that, as a small council, it did not have ‘the means and expertise readily available to us to provide a complete, costed application for the funding within the timeframe, that is, a total of 22 working days, which was allowed when the funding guidelines were released on 25 November 2008.’ In light of the re-opening of applications, that council asked for further time to be made available to prepare a complete, costed application but did not receive a response to this request, and was not advised that applications that were not complete and had not been costed were, nevertheless, to be considered for shortlisting and, ultimately, may be awarded funding.

4. Shortlisting applications received

This chapter outlines the development and application of unpublished criteria used by the department to shortlist projects and examines the department's conduct of risk assessments on the shortlisted projects, the results of which were provided to the Minister for Infrastructure, Transport, Regional Development and Local Government to inform his decisions as to which applications should be recommended for funding approval.

Introduction

4.1 Each version of the Program Guidelines had advised potential applicants that 'the department will undertake a risk analysis of the council to undertake the proposed project'. The Guidelines further advised that the financial viability of the proponent would be considered, and that project viability would be considered from two perspectives: namely whether the project could be completed on time and within budget; and whether the project would be sustainable. The Guidelines also advised that Independent Viability Assessments would be undertaken by a qualified external consultant engaged by the department in situations where it was considered that there were risks to the viability of the proponent or project that required further consideration.

4.2 As well as being more likely to lead to a positive result in terms of achieving program objectives and promoting public confidence in grants administration, publishing well-developed eligibility and assessment criteria can also improve the efficiency of the departmental assessment process by reducing the need to apply resources to the assessment of ineligible or poor quality applications. Accordingly, in light of the importance to the Program objectives of timely application assessment and approval processes, and the evidence from the initial application round that the existing approach of not publishing any assessment criteria was also likely to result in a significantly over-subscribed application round, there would have been benefits in the department canvassing with its Minister the merits of developing and publishing in the Program Guidelines assessment criteria. This was not done, instead:

- in light of the significant number and value of applications received, on 19 March 2009 shortlisting criteria were agreed by Government so as to

reduce the amount of Program funding being sought to more closely align with the funds that were available; and

- the approach taken to the risk assessment of individual applications was changed with greater use of consultants to contribute to the conduct of risk assessments and, rather than complete a risk assessment of all 484 applications that were received (as had been suggested by the published Program Guidelines), the shortlisting criteria were used to identify a sub-set of 202 applications for which a risk assessment was conducted. This was viewed by the department as a necessary truncation of the originally envisaged process so as to meet the desired assessment timeframe.

Establishing and applying shortlisting criteria

Initial shortlisting criteria established: 9 February 2009

4.3 At its meeting on 9 February 2009, the Strategic Priorities and Budget Committee of Cabinet was asked to give approval for the Minister for Infrastructure, Transport, Regional Development and Local Government to allocate funding to certain projects. Specifically, from the 344 applications that had been received under the initial application round that closed on 23 December 2008, it was proposed that total funding of \$557.49 million be considered for 150 projects. The Committee was advised that two ‘priorities’ had been used to select projects:

- from local councils with populations of more than 100 000 people¹²⁴ ‘as this reflects councils most likely to have the capacity to move quickly on their projects’ (see Table 4.1); and
- from local councils with populations of more than 5 000 people; with any partnership funding; and which fall into the broad categories requiring the least percentage of Commonwealth funding (social and cultural infrastructure and recreation facilities). The draft paper stated that: ‘these categories not only represent the best value for

¹²⁴ Rounded down to the nearest 1 000.

Commonwealth funding but are also the most heavily subscribed categories’.

Table 4.1

Local governments by population

Population	National	% of total	NSW	QLD	VIC	SA	WA	TAS	NT
<10 000	267	47%	55	38	10	40	98	14	12
10 001 to 15 000	55	10%	18	5	8	9	10	5	0
15 001 to 20 000	23	4%	3	3	7	4	3	2	1
20 001 to 50 000	96	17%	32	12	17	12	15	6	2
50 001 to 100 000	61	11%	26	3	15	5	9	2	1
>100 000	63	11%	21	12	22	4	4	0	0
Total	565	100%	155	73	79	74	139	29	16

Source: DITRD LG data on local government populations used in the formula of the \$250 million RLCIP Council Allocation component.

4.4 The Committee agreed to the Minister’s proposal that projects be initially shortlisted against the criteria outlined at paragraph 4.3.¹²⁵ The Program Guidelines were updated and reissued four days later (on 13 February 2009—see paragraph 5.6, at the same time as applications were reopened for all councils with a closing date of 6 March 2009). However, the opportunity was not taken to include in the revised Program Guidelines the criteria that were to be applied in shortlisting projects for funding consideration settled on 9 February 2009. As noted at paragraph 3.8, nor was there any amendment to the threshold eligibility and compliance criteria set out in the revised Guidelines.

¹²⁵ It also agreed that:

- DITRD LG and Finance would agree an approach to the balance between up front and milestone payments for individual projects that was ‘contingent on the project proponent’s demonstrated capacity to implement projects quickly’; and
- where necessary, councils affected by natural disasters (such as the Victorian bushfires and the North Queensland floods) would be given the opportunity to revise their project proposals.

Refined shortlisting criteria established: 19 March 2009

4.5 On 18 March 2009, DITRDLG provided its Minister with a list of all 477 applications that had been received to that time, and advised its Minister that:

- the 477 applications¹²⁶ so far received were seeking a total of \$2 billion in program funding—a significant increase on the 344 projects seeking funding of \$1.23 billion that had been received in the initial application period that had closed on 23 December 2008;
- applying the 9 February 2009 shortlisting criteria to the 477 applications that had been received as at 18 March 2009 would result in a shortlist of projects seeking more than \$1 billion in program funding; and
- there were a number of possible options to refine the list of projects.

4.6 To reduce the amount of funding being sought, on 19 March 2009 Ministers decided that an initial shortlist of projects should be generated with the resulting shortlisted projects to then be further assessed. The shortlisting criteria approved by Cabinet on this date were as follows:

(a) All projects must have partnership funding of greater than or equal to 1 per cent of project cost;

(b) Projects from local councils with populations of more than 100,000 (this criterion is unchanged);

(c) For councils with populations of 10,000 to 100,000, projects which seek \$10 million or less of Commonwealth funding, and projects which fall into the following social and cultural or recreational categories:

- i. Community centres;
- ii. Cultural centres;
- iii. Libraries;
- iv. Enhancement of main streets and public squares;
- v. Sports grounds and facilities;
- vi. Kitchens for organisations; and

¹²⁶ A further seven applications were received by 20 March 2010—disaster affected councils had until 20 March 2010 to submit their applications to the re-opened round, whereas most councils were required to submit applications by 6 March 2010.

vii. Surf life saving clubs;¹²⁷

(d) All disaster affected councils (noting that several have accepted an extension of time to 20 March 2009 to lodge a new or revised application).

4.7 The shortlisting criteria were not publicised to applicants either through a revision to the Program Guidelines or via the Frequently Asked Questions document (despite a revised version of the Frequently Asked Questions document being published on 23 March 2009). Nevertheless, consistent with the Government's decision of 19 March 2009, the criteria were applied to all applications received, with 202 applications being shortlisted for the conduct of departmental risk assessments.

Conduct of risk assessments

4.8 In its 14 April 2009 advice to the Minister on the outcome of its shortlisting and risk assessment processes, the department summarised its risk assessment approach as follows:

As a component of the \$42 billion Nation Building – Economic Stimulus Plan, one of the program's key objectives *[is]* to provide direct and immediate economic investment in local community infrastructure to mitigate the impact of the global financial crisis, and you asked that the assessment process be completed by 15 April 2009. The department has previously agreed to a recommendation by the Australian National Audit Office (ANAO) in its *Performance Audit of the Regional Partnerships Program* that where a truncated or expedited assessment process occurs we would qualify our advice to Government accordingly.¹²⁸

¹²⁷ The Minister noted that the categories listed reflected 'areas of demand by Councils and include high levels of co-investment'.

¹²⁸ The department further advised the Minister that: 'there are a number of potential risks with reducing the assessment period. These include:

- inaccurate departmental assessments as a result of less-experienced staff undertaking assessment work and inadequate time being able to be spent on each aspect of the assessment process;
- incorrect or insufficient advice being provided to the department by Independent Viability Assessment providers as a result of the department imposing short timeframes on the providers for the return of completed assessment reports; and
- the areas of concern raised by the ANAO's criticism of the Regional Partnerships Program. These include lack of transparency, lack of rigour, inadequate application scrutiny by the department, projects approved outside published guidelines and Ministerial decisions taken outside guidelines.'

In this instance, we met the timeframe by redeploying staff from within the department, utilising additional contract staff in house, and by making greater use of qualified external consultants to conduct Independent Viability Assessments (IVA) than was envisaged in the Guidelines (the RLCIP – Strategic Projects Guidelines state that the department will undertake a risk analysis of the council’s capacity to undertake the proposed project in the areas of Proponent and Project Viability and, where required, will engage a qualified external consultant to undertake an IVA – in fact, in order to meet the assessment timeframe, we engaged a qualified external consultant to undertake IVAs for all proposed projects and used departmental staff only to (a) consider the risks and proposed treatments identified by the IVA process and (b) assess the risks associated with corporate and personnel, and management of grant funds).

4.9 The department had advised its Minister that there were risks associated with reducing the time available to undertake the risk assessments, including a lack of rigour and inadequate scrutiny of applications. Against this background, the risk assessments considered and rated risks in five categories, namely:

- *Corporate and Personnel*, which related to any factors that could suggest Program funding would be in danger of being poorly managed or misappropriated. This included looking at the proponent and its personnel responsible for delivering the project. The department’s procedure manual directed project officers to search media reporting for civil and criminal proceedings involving the proponent, any disclosures within the application and state government websites;
- *Management of Grant Funds*, for which the procedures manual required project officers to consider the nature of the proponent’s skills and experience in managing grant funds and the ability to deliver the full scope of the project;
- *Project Delivery*, which involved assessing the proponent’s capacity to plan and deliver the nominated project in relation to whether: statutory and other approvals and permits had been obtained; effective planning and management strategies were in place to allow projects to commence in a timely manner; the project might cost more than the proponent had budgeted, and how additional costs would be funded; the potential for the project to take longer to be delivered than had been

planned (schedule risk); and the extent to which partner funding required for the project had been secured;

- *Project Sustainability*, including consideration of issues such as future cash flows, management and maintenance issues and demand for the facility into the future; and
- the *Proponent's Financial Position*, given the importance of this factor to the capacity of the proponent's capacity to deliver and sustain the project. Assessments of the financial position of council's were undertaken drawing on 30 June 2008 data as the most recently available audited financial statements – this meant that any deterioration in a council's financial position as a result of the onset of the global financial crisis may not have been reflected in the analysis (see, for example, paragraph 4.43).

4.10 Ratings of *Very Low*, *Low*, *Moderate*, *High* or *Severe* were allocated against each of the five criteria, together with an overall conclusion (but not an overall risk rating) from the department as to whether the risk assessment supported the approval of funding for the project. The department recorded the results of its risk assessments in a summary brief for each project that was the subject of a risk assessment.

4.11 As noted at paragraph 4.8, departmental officials were responsible for reviewing the Independent Viability Assessments and analysing corporate and personnel and management of grant funding risks. There were few applications identified with any risks in these two categories, and no applications assessed as having either a *High* or *Severe* risk in terms of the management of grant funds. Two of the 206 risk-assessed applications¹²⁹ were assessed as having a *Moderate* risk in terms of this category. This result is surprising given the chequered history of some councils in terms of compliance with the project reporting and acquittal arrangements under other grant programs administered by DITRDLG. For example, in respect to

¹²⁹ As outlined at paragraph 5.31, on 20 April and 21 April 2009, the Minister's Office had instructed the department to undertake risk assessments on four projects that had not met the shortlisting criteria for risk assessment. In each case, the department was advised that the Minister wanted the application subjected to a risk assessment because the Minister had received strong representations about the respective application from the community and/or the local Member.

Hepburn Shire Council's application for \$2.25 million towards the estimated \$3.1 million cost of constructing a multi-purpose community recreation facility at the Doug Lindsay Recreation Reserve, the departmental risk assessment concluded that:

The Department considers the proponent has the necessary skills and experience to manage Community Infrastructure Program – Strategic Projects funding and the funding agreement. This is supported by the proponent's history of successfully managing grant funds.

4.12 By way of comparison, Hepburn Shire Council had been awarded \$500 000 under the Regional Partnerships Program for a major redevelopment of the bathhouse facility in the town of Hepburn Springs in Victoria. This was one of 22 project case studies prepared by ANAO as part of the audit of that program. In respect to the management of those grant funds, ANAO's audit report noted that there had been lengthy delays in commencement of the project; the funding recipient had invested the Regional Partnerships funds, which had been paid in advance of project commencement, in a high risk unit trust investment; and a division of a Victorian State Government department had taken over responsibility for delivery of the project (due to project delays and Council concerns about its own ability to manage the project).¹³⁰

4.13 The risk assessment ratings also did not necessarily accord with the department's own analyses. For example, Richmond Shire Council's application for \$3.0 million in Program funds to revitalise its administration and civic centre was assessed as having a *Very Low* Management of Grant Funds risk, notwithstanding that the assessment of Project Delivery risk had concluded that:

The proponent has not demonstrated previous experience in managing grant funding of this size.

4.14 As noted at paragraph 4.8, consultants were contracted to assess project delivery risks; project sustainability risks; and, the proponent's financial position risks. *High* and/or *Severe* risks were identified for 86 projects against each of these categories. Inconsistent approaches were also evident in relation

¹³⁰ ANAO Audit Report No. 14 2007–08, *Performance Audit of the Regional Partnerships Program*, Volume 2—Main Report, op. cit., pp. 154, 155 and 516.

to risk assessment under these categories, including the key category (in terms of focusing funding on projects that would provide timely economic stimulus) of project delivery risk. For example, the department's procedures manual outlined that, for an application to have a *Low* project delivery risk, the project delivery strategy should be 'in final draft stage but not yet ready to implement'. The procedures manual further advised that applications without a project delivery strategy should be assessed as having a *Severe* project delivery risk. In this respect, Table 4.2 illustrates the inconsistent approaches adopted to risk rating applications that did not include a project plan/delivery strategy. As Table 4.2 shows:

- the risk assessment of the City of Rockingham's application for \$2.95 million towards the \$4.61 million estimated cost of improving selected recreational facilities across the city was rated as having a *Moderate* project delivery risk due to (amongst other things) no detailed project plan having been completed and no external quotations to support the project cost estimate.¹³¹ On the basis that the standard Funding Agreement terms and conditions adequately managed the identified risks, the post-treatment risk was assessed as *Low*. The application was approved for funding. Council's October 2009 progress report provided to the department indicated that, whilst it expected to meet the overall completion date for the project, tender and design processes has been delayed and none of the \$1.475 million of Program funds paid in June 2009 had been spent; and
- the risk assessment of Bayside City Council's application for \$2.4 million in Program funds towards the estimated \$3.1 million cost of upgrading streetscapes at four activity/shopping centres was rated as having a *Low* project delivery risk, notwithstanding that no project plans or feasibility studies had been provided and the costing information provided was inconsistent. On the basis that the standard

¹³¹ In July 2010, the City of Rockingham informed ANAO that: 'in Council's grant submission whilst two components of the project, the Waikiki Foreshore and the Point Peron boat ramps, included detailed project plans detailing the designs and the extent of the upgrade work to be undertaken as part of the project, the remaining five components had no detailed project plan or developed detailed design. Therefore the comment [by the department, in its risk assessment provided to the Minister] that no detailed project plan had been developed detailing the designs and the extent of the upgrade work to be undertaken as part of the project is not entirely correct.'

Funding Agreement terms and conditions adequately managed the identified risks, the post-treatment risk was assessed as *Very Low*. This project was not approved for funding.

Table 4.2

Assessment of project delivery risks: example projects where key project information was not supplied

City of Rockingham: Recreation Facilities Improvements Program	
Identified Risk	Treatment
No external building contractor has been engaged.	If this application is successful, the Department may wish to consider including as a milestone in the funding deed, engagement of a builder with sufficient qualifications and experience to undertake work of this nature.
The proponent appears to have not yet applied for relevant development permits. It is unclear from the application form as to what other development permits are required for to undertake the project.	If this application is successful, the Department may wish to consider as a key milestone to the funding deed, evidence that all appropriate approvals have been granted within six months of execution of the Funding Agreement.
No external quotations have been provided. Therefore, the project cost estimate may not be accurate. No detailed project plan has been developed, detailing the designs and the extent of upgrade work to be undertaken as part of the project. Therefore, there is a risk that the project cost estimate may not be complete.	If this application is successful, the Department may wish to consider as a key milestone to the funding deed: <ul style="list-style-type: none"> - the engagement of an external consultant or quantity surveyor to provide an independent project cost estimation - a detailed project plan detailing the designs and the extent of refurbishment and improvement work to be undertaken as part of the project - an undertaking from the proponent to meet any project cost shortfall.
<p>The Independent Viability Assessment (IVA) established that the project delivery risk to the project is MODERATE, but should the above risk treatments be adopted, the project delivery risk to the project will be LOW.</p> <p>After considering the findings of the IVA, the Department has determined that the suggested risk treatments are addressed through current controls in the Community Infrastructure Program Funding Agreement (contract).</p>	

Bayside City Council: Upgrade of Activity Centre Streetscapes

Identified Risk	Treatment
The proponent did not complete the budget table in the application.	The Department will make the release of funding for the second milestone payment contingent upon the proponent providing the Department with Budget details.
The costing information provided as supporting documentation in the proponents application does not correspond to the cost estimates provided in the proponent's application form. Due to a lack of consistent costing information, there is a risk that the total project may be either over or understated.	No risk treatment strategy has been identified given overall Project Delivery Viability risk rating was assessed as Low.
No project plans or feasibility studies were provided with the proponent's application.	As above
The masterplans for all four village activity/shopping centres were not included as supporting information to the proponent's application.	As above

The IVA established that the project delivery risk is LOW, but should the above risk treatment be adopted, the project delivery risk to the project will be VERY LOW.

After considering the findings of the IVA, the Department has determined that the suggested risk treatment is addressed through current controls in the Community Infrastructure Program Funding Agreement (contract).

Source: Extract from DITRDLG records.

Project delivery risk

4.15 The identification and management of project delivery risks is particularly important in the context of economic stimulus spending programs. This is because delays in the commencement and/or progression of projects approved for funding compromise the objective of providing timely stimulus to the economy.

4.16 The project delivery criterion was the most significant in terms of the number of risks identified and based on the risk ratings given to projects. For example, 166 projects were rated with a project delivery risk of *Moderate* or higher prior to receiving treatment. This compares to 126 projects with similar levels of risk under project sustainability and 45 projects under the proponent's financial position criteria. Against this background, project delivery risk was analysed from a number of perspectives, including whether the necessary project approvals and permits had been sought and obtained, project planning and management risks and cost risks.

Approvals and permits risks

4.17 This risk was associated with proponents that had either not sought the statutory approvals necessary for their project to proceed, or had not been

advised of the outcome.¹³² There were 166 projects where risks were identified in relation to approvals and permits, of which 116 were approved for funding.

4.18 In a number of instances, the Independent Viability Assessment provider recommended that evidence of the necessary approvals be obtained prior to funding being provided. However, DITRDLG's approach was that the absence of approvals and permits could be addressed through the terms of the Funding Agreement. Most commonly, milestone two was drafted to require the council to provide the department with evidence that approval had been obtained before further payments would be made. However, under this approach, evidence that the approvals necessary for the project to proceed had been obtained was not required until after a substantial proportion of funding had already been paid to proponents when the Funding Agreement was signed.¹³³ Should the necessary approval not be obtained, such that the project was unable to progress, the advance payment would not result in a stimulatory effect on the economy and additional payments would not be able to be made.

4.19 For example, the Bega Shire Council's Sapphire Aquatic Centre application sought and was approved for \$2.2 million in Strategic Projects component funds for a \$3.375 million project to upgrade (widen), enclose and heat an existing ageing swimming pool so as to provide a year-round heated public swimming facility in the shire. The risk assessment identified that the Development Application for the project had not yet been approved, with the proposed risk mitigation strategy to require, as a key milestone to the Funding Agreement signed on 24 June 2009, the provision by council of evidence that all appropriate approvals had been granted. In accordance with this strategy, amongst other things, Milestone 2 in the signed Funding Agreement required evidence of confirmation that all necessary planning and development approvals and relevant construction permits had been obtained and/or granted.

¹³² Such approvals can include development and planning through the councils themselves and approvals through state government agencies such as environmental permits.

¹³³ 88 per cent of proponents approved received 50 per cent of the approved funding on signing of the Funding Agreement. The remaining 12 per cent of proponents received either 25 per cent or 35 per cent of the approved funding on signing of the Funding Agreement (see paragraphs 7.40 to 7.48).

4.20 In relation to Milestone 2, council's Progress Report No.1 submitted to the department on 13 November 2009 advised that the Development Application had been approved, and that documentation for a Construction Certificate had been lodged on 5 November 2009. Council's Progress Report No.2, submitted to DITRDLG on 14 January 2010 stated in relation to outstanding Milestone 2 issues and Milestone 3 that:

The key issues that have been encountered with delivering this Project are:

- Additional works associated with the project, but not included within the Funding brief, have been identified and are required to be documented before construction can commence.
- Issues have arisen with DECWA (Department of Land) and National Parks regarding the approval process, this issue is expected to be resolved shortly.

4.21 Council advised the department that it had not yet obtained all approvals. As a result, construction work did not commence within six months of the Funding Agreement being signed as had been required under the Program Guidelines. Council advised ANAO during a March 2010 site inspection that physical construction had commenced in February 2010, after the summer season had concluded (as illustrated by Figure 4.1). In addition, as was apparent during the site inspection, council advised ANAO that the project scope had been reduced from that proposed in its application and required under the Funding Agreement, as the existing pool would no longer be widened from six to eight lanes.

Figure 4.1

Bega Shire Council Sapphire Aquatic Centre construction underway



Source: ANAO site visit, March 2010.

Planning and management risks

4.22 Approximately 127 projects were identified as involving planning and management risks, with 86 of those projects being approved for funding. The identified shortcomings included a lack of planning documents, limited project management experience and/or no building contractors having been engaged. Other less common planning issues included that the proponent had not gained access or ownership of the land to be developed and future stages of the development were not funded.

4.23 Again, the primary treatment option adopted was through the Funding Agreement attaching further payments after the initial advance payment to the achievement of nominated milestones. However, some projects were not required to provide detailed plans until after the commencement of construction. There were also a number of planning and management risks which were unable to be addressed through the Funding Agreement. Examples included projects which required resolution of ownership of the facility, funding to be confirmed for future stages and confirmation of the experience of nominated project managers.

4.24 For example, Byron Shire Council's application for \$8 million towards the \$14.9 million estimated cost of the Ewingsdale Sports and Cultural Facility outlined that the existing plan was for the project to be constructed over a seven year period but that, if funding was approved, construction would be consolidated into a 30 month period. At the time of the application, however, work had not yet been done to confirm that the truncation was feasible.¹³⁴

4.25 Through the Better Regions Program, also administered by DITRD LG and currently being audited by ANAO, Byron Shire Council has been approved to receive \$1.5 million towards stage one of this project as a result of a 2007 Election Commitment (the Strategic Projects component funding is to go towards stages two and three). The assessment of the Better Regions application identified four risk mitigation strategies required to be implemented prior to any funding being released, namely:

- evidence that the Review of Environmental Factors had been completed and that no significant environmental factors had arisen as a result of the project;
- provision of a completed project plan;
- confirmation of final estimated project costs; and
- confirmation of all partner funding towards the project.

4.26 As a result, the Better Regions Funding Agreement was not signed until 28 January 2010¹³⁵. *Moderate* project delivery and project sustainability risks¹³⁶

¹³⁴ In July 2010 Byron Shire Council informed ANAO that: 'The key determinant in the original seven year plan was the lack of available funding, that is the original plan was to deliver the project over seven years as funding became available. The truncated 30 month period was possible due to the immediate availability of funding. The 30 month period was regarded, by consultants and Council staff experienced in constructing similar projects, as being eminently achievable. The milestone reports delivered to date demonstrate that the project, as currently progressing, can be delivered within the 30 month period.'

¹³⁵ In July 2010, Byron Shire Council informed ANAO that: 'as the two funding applications had been approved for different aspects of the same project, considerable integration between the two funding agreements had to be achieved. The Better Regions funding was being administered by the Department of Infrastructure based in Newcastle while the RLCIP-Strategic Projects funding was administered from Canberra. Council was able to work in close collaboration with both areas within the department to achieve the necessary degree of integration and consistency between the two funding agreements, however considerable consultation and revision of each of the funding agreements was required which took time to complete.'

were identified in the risk assessment of the Strategic Projects component application, but these were to be managed through the Funding Agreement (thereby allowing the \$2.8 million first installment payment for stages two and three being funded through the Strategic Projects component to be paid in June 2009, well in advance of when any Better Regions funding for stage one would be paid—the first Better Regions payment of \$53 500 is due to be paid on 1 June 2010). Further in this respect, the Strategic Projects component Funding Agreement was signed on 25 June 2009, with the department acknowledging to council (in July 2009) that:

We appreciate that in the very short period of time between the council being advised that your application was successful and getting the Funding Agreement executed, that there was limited time to talk through all the implications of the council truncating a 7 year plan into one that can be completed in only 2–3 years. Our focus will be on how the council can finalise its development of the business plan in such a way that you can properly commence the project and make real headway on stages 1 and 2—which we are confident Byron Council is keen to do as much as we are.

4.27 The first milestone in the Strategic Projects component Funding Agreement required council to provide the department (by 1 February 2010) with a final project budget, including the ‘initial estimate for the project’. In October 2009, ANAO conducted a site visit to this project (see Figure 4.2). In November 2009, council advised the department that the latest estimate from an independent quantity surveyor had increased project costs by close to \$9 million above the original estimates. Changes were made to the scope specified in the Better Regions Funding Agreement but, because the defined scope of works included in the Strategic Projects component Funding Agreement had been significantly abbreviated prior to its signature, changes were not required to that Funding Agreement to reflect scope changes within the project. Notwithstanding the abbreviated Strategic Projects component Funding Agreement, in June 2010, the department advised ANAO that:

¹³⁶ The identified project delivery risks included: ‘A detailed timeline has not been provided and as such it is difficult to comment on the likelihood of the applicant completing the project within the set timeframe and whether Stage 1 is progressing as planned’; with the Independent Viability Assessment provider suggesting that the department may wish to request a detailed, and up to date, timeline from the applicant in order to assess the likelihood of on time completion.

- on 29 January 2010, the Minister had approved a variation and scope reduction¹³⁷ for the project; and
- a deed of variation had been executed on 11 May 2010 incorporating changes that were required as a result of the cost escalation.

Figure 4.2

Site for Byron Shire Council's Ewingsdale Sports and Cultural Facility



Source: ANAO site visit, October 2009.

Cost risk

4.28 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.¹³⁸ The

¹³⁷ In July 2010, Council commented to ANAO that 'although the scope of the Byron Regional Sports and Cultural Complex (*also referred to as the Ewingsdale Sports and Cultural Facility*) had been reduced, the basic concept of sports fields with amenity blocks and a multipurpose stadium remained the same.'

¹³⁸ 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:

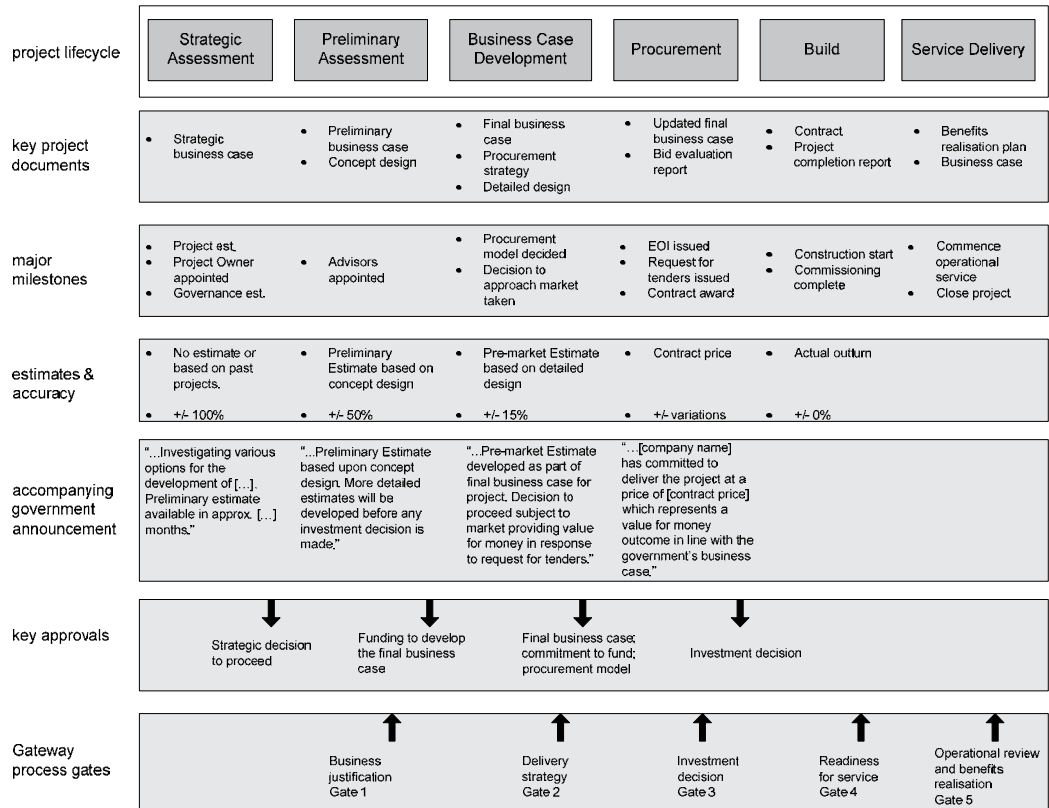
- for half of all projects where a P50 estimate is used; and
- for one out of ten projects where a P90 estimate is used.

management of cost overruns, as well as any savings for individual projects, is an important aspect of the overall management of infrastructure funding programs.

4.29 Against this background, cost risk is linked to planning risks because it is more difficult to develop robust cost estimates for projects with incomplete designs and planning documentation (see, for example, Figure 4.3). Further, there are risks to timely commencement of projects in circumstances where, once a robust estimate is developed, the available funding is insufficient to enable the project to progress without either the scope being reduced or additional funding sourced.

Figure 4.3

Progressive development of project estimates



Source: ANAO Audit Report No. 20 2008–09, *Approval of Funding for Public Works*, Canberra, 5 February 2009, p. 74.

4.30 There were 149 projects identified with cost risks, 97 of which were approved for funding. These risks ranged from no cost estimates having been

provided with the application, to the estimates provided having limited detail or lacking information on the underpinning assumptions. For some of the assessments, the Independent Viability Assessment provider recommended treatment measures such as the provision by the relevant council of more detailed budgets to encourage confidence in the project and a commitment from the proponent that it would fund any escalation in cost without reducing the scope of the project. Again, these issues were, in the main, sought to be addressed through inclusion as a milestone that would need to be met before the second payment could be made. The department also asked councils to sign an undertaking that they would meet any budgetary shortfall should one subsequently arise with the project. These approaches have not proven to be effective, with a number of councils reducing the scope of their project so as to compensate for increased project costs.

4.31 For example, significant changes in scope have occurred in respect to the City of Tea Tree Gully's project to upgrade and refurbish the Waterworld Aquatic Centre. The December 2008 application for this project included a project cost estimate of \$4.775 million, of which \$2.765 million was sought from the Strategic Projects component. However, the proposed budget contained in the application was only supported by preliminary estimates for part of the proposed works. Council's March 2009 revised application submitted in response to the re-opened round increased the funding sought from the Strategic Projects component to \$4.0 million, with estimated project costs having risen to \$6.1 million, but with no updated supporting data other than revised figures in the application being provided.¹³⁹ The department proposed to address the project delivery (including cost) risks identified by the Independent Viability Assessment provider through milestone 2 of the Funding Agreement (see Figure 4.4).

¹³⁹ Funding was approved for the \$2.765 million requested in the December 2008 application rather than the \$4.0 million sought in the March 2009 revised application. In this respect, in July 2010 the City of Tea Tree Gully advised ANAO that the revised application did not represent a request for additional funding for the original scope of works, but rather deliberately expanded the proposed project outcomes. Council also advised ANAO that it was requested (by DITRD LG) to fund the entire project budget shortfall for both the initial and the revised project scope in order to received the initial RLCIP funding amount (\$2.765 million) from the Minister. See further commencing at paragraph 4.35.

Figure 4.4

**City of Tea Tree Gully Waterworld Upgrade and Refurbishment Project:
Funding Agreement extract: milestone 2 requirements**

<p>Evidence that is acceptable to Us that:</p> <ul style="list-style-type: none">• You have completed detailed specifications including, but not limited to, the design, size, quantity, dimensions and construction materials to be used for each structure that is a component of the upgrade of the Waterworld Aquatic Centre, to clarify the Activity as described in item 1.4 of this Schedule;• You have available the necessary funds (\$3,350,000) to meet Your committed contribution to the Project;• You have a reasonable strategy to meet the expenses related to the running of the Waterworld Aquatic Centre during the Operational Period;• development approval and relevant permits required to Commence Construction have been obtained;• a suitably qualified and experienced Project Manager has been appointed to manage the project;• the design process is completed; and• the tender process for construction work is completed.

Source: Extract from DITRDLG records.

4.32 In October 2009, one week before the second milestone was due to be completed, council advised the department that:

the Waterworld Project at this point in time is under significant threat as the original budget of \$6.1 million is now estimated to cost \$9.7 million.¹⁴⁰

4.33 In respect to the reasons for the cost increase, council advised the department that:

- sub consultants working with the architect had developed the design to being 50 per cent complete and had presented quantity surveyor estimates 'which considerably exceed the original budget allocated for the project'; and
- the estimated cost of refurbishing the 'learners pool' had increased significantly due to recent investigations revealing major leaks to the main water delivery pipe and construction joints.

¹⁴⁰ In respect to the budget of \$9.7 million, in July 2010 the City of Tea Tree Gully advised ANAO that the actual project cost based on the contracts for works is approximately \$8.4 million (which includes the total project and associated site works some of which is beyond the scope of works which relate to the RLCIP funding).

4.34 Council requested (and the department agreed) to the Funding Agreement being varied such that the Commonwealth funding has been reallocated to the water body features only, with the upgrade and remodeling/refurbishment of the existing Waterworld building being removed from the project scope. Council is hoping it will be able to secure private funding for these works.

Project delivery risk increased by the approach taking to assessing revised applications

4.35 In relation to the allocation methodology for the additional \$500 million in funding announced on 3 February 2009, the Government stated that:

The expanded investment will mean more projects in the existing application process receive funding. Successful applications must commence within six months of the contract being signed.¹⁴¹

4.36 In this respect, in February 2009, DITRDLG advised ANAO that:

In considering the stimulus package and given the urgency of getting activity underway Cabinet decided to apply \$500 million in additional funding to the existing funding round. Thus projects will come from the existing round and we will administer the program consistent with Cabinet's decisions around the stimulus element. There will be some small changes to our planned administration given the much larger scale of the program.

4.37 As mentioned at paragraph 1.31, on 13 February 2009, the Minister for Infrastructure, Transport, Regional Development and Local Government announced that the Government had secured the passage of the \$42 billion National Building and Jobs Plan legislation, which included an additional \$500 million for the Strategic Projects component of the RLCIP. The Minister's announcement also outlined that a change was to be made to the previous position of relying on the existing application process that had been used when the available funds were \$50 million, as follows:

¹⁴¹ The Hon Kevin Rudd MP, Prime Minister, The Hon Wayne Swan, Treasurer and The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Black Spots, Boom Gates, Regional Roads and Community Infrastructure*, Joint Media Release, AA011/2009, 3 February 2009.

The Government will give local councils and shires the opportunity to submit new or revised applications for the Regional and Local Community Infrastructure Program – Strategic Projects.¹⁴²

4.38 On 14 April 2009, when providing the results of its risk assessment of shortlisted projects to the Minister, the department advised of how it had approached the assessment of revised applications, as follows:

As per your instructions to the department, where two applications were received from the same applicant—one submitted in RLCIP-Strategic Projects Round 1, the second submitted in RLCIP-Strategic Projects Round 2, only the second application was considered. If the second application relates to a project which is essentially the same as that which was the subject of the first application, the only difference being an increased bid amount in the second application, the Department will consider the second application, but may, in light of the requirements arising under the FMA legislative regime to ensure the efficient and effective use of public money, recommend funding at the bid amount requested in the original application, unless the proponent has submitted substantial reasons to explain the bid amount.

4.39 The revised Program Guidelines published in relation to the re-opening of applications had not advised councils that they needed to have ‘substantial reasons’ to support a revised application that involved increasing the amount of funding sought from the Strategic Projects component.

4.40 There were 34 instances where councils revised their original application with an increased amount of funding being sought from the Strategic Projects component. Of these 34 instances, there were two applications where the department considered that a substantial reason existed for supporting the approval of the revised application. On both occasions, the revised application proposed an increased scope of works in addition to an increased funding bid.

4.41 Of the remaining 32 instances, there were two occasions where the department’s risk assessment did not reflect that the relevant council had applied for an increased amount compared with its original application. For example, Wellington Shire Council in Victoria (a disaster-affected council) had applied in December 2008 for \$3.25 million towards the then estimated

¹⁴² The Hon Anthony Albanese MP, Media Release, AA28/2009, op. cit., 13 February 2009.

\$9.7 million cost of constructing the Gippsland Regional Sports Complex at Sale. Council's March 2009 revised application for this project outlined that the project estimate was now \$10.9 million, with \$4.45 million now being sought from the Strategic Projects component. Council provided an updated cost estimate prepared by a quantity surveyor, but the department did not consider that this was a 'substantial reason' (see paragraph 4.38) to support the increased application amount such that the risk assessment was conducted on the original application amount and project cost estimate,¹⁴³ and funding was approved for the original application amount of \$3.25 million. The Funding Agreement was prepared and signed on the basis of the December 2008 project estimate and application amount.¹⁴⁴

4.42 In respect to the remaining 30 instances where councils revised their original application to seek an increased amount of funding, there were 13 instances where the department's assessment (as provided to the Minister) was that the second application remained 'ostensibly unchanged other than an increased bid amount'. However, there were also applications where the increased amount of funding being sought reflected further project development work by the relevant council, including more developed and/or updated project cost estimates. In these circumstances, reverting to the original application amount increased the project delivery risk of the application and/or increased the risk of the project scope needing to be reduced.

4.43 For example, the City of Albany's December 2008 application for Stage 2 of the Albany Leisure and Aquatic Centre (which the department's risk assessment advised the Minister was seeking to provide equitable access for a range of activities involving community and sporting groups, as well as focusing on increasing individual participation rates) had sought \$2.92 million towards a total estimated project cost of \$7.785 million, with partnership contributions from the Western Australia Government and council. The revised application sought Strategic Projects component funding of

¹⁴³ The risk assessment had noted that: 'as a result of the recent Victorian Bushfire disaster, the proponent may find it difficult to engage contractors for the project. If contractors can be engaged, it is likely that the cost of the project will increase substantially as contractors are expected to be in high demand. It is also likely that the cost of building materials will also increase significantly'.

¹⁴⁴ In late 2009, Council requested a variation to reduce the scope of the overall project as the State Government had not confirmed its partner funding and Council was not in a position to meet the shortfall. The variation was approved by the Minister in March 2010.

\$5.175 million towards an estimated project cost of \$8.175 million, with partnership funding now only to be provided by the State Government. The second application was for the same project scope, but with an increased estimated cost. In respect to the changes:

- the removal of council's contribution to the project followed an assessment of council's financial position where it had been determined that council had an unsustainable volume of loans and council's reserves had been reduced as a result of investment exposure to the failure of Lehman Brothers Holdings Inc in the United States;¹⁴⁵ and
- the project cost estimate was based on information from a quantity surveyor.

4.44 The departmental risk assessment concluded that the project delivery risk was *Moderate* (but would be reduced to *Low* through the standard Funding Agreement terms and conditions). In respect to the increased amount sought in the revised application, the risk assessment provided to the Minister concluded that:

As per your instructions to the Department, and in accordance with Regulation 9 of the Financial Management and Accountability Regulations 1997 where a proponent has submitted a new application during the Community Infrastructure Program – Strategic Projects second round, but the project remains ostensibly unchanged other than an increased bid amount, the Department has considered the proponent's most recently received application, and has recommend funding at the bid amount requested in the original application.

4.45 As a result of council being awarded only the original bid amount in relation to a project for which the total cost estimate had increased (see

¹⁴⁵ Notwithstanding this advice, in respect to the Council's financial position, the department's risk assessment concluded that: 'The Independent Viability Assessment noted that the City of Albany appears to be in a strong financial position where they could fund any shortfalls in partner contributions, or the entire project cost, if required; has sufficient cash to meet its obligations over the next three years; and has a large non-current asset base that could be used as security to obtain finance to support the ongoing viability of the centre, if required.' Similarly, project sustainability risk was assessed as *Low* on the basis that: 'The proponent has not provided details of the assumptions on which the cashflow projections were based. However, given the strong financial position of the proponent as at 30 June 2008, it is likely to have the capacity to meet any costs of sustaining the Centre in addition to those forecast.'

paragraph 5.13), the project scope was reduced prior to the Funding Agreement being signed.¹⁴⁶

Risk assessment outcomes

4.46 The outcome of risk assessments conducted on the 202 shortlisted projects was that seven were identified as non-compliant, with a further seven not recommended based on the assessment of risk (see paragraph 5.10). Specifically:

- in four instances, risk ratings were unable to be allocated on the basis that the proponent had provided insufficient information to assess the adequacy of many factors affecting project deliverability, project sustainability and/or the proponent's financial position;
- in two instances, the risk assessment concluded that there were significant risks (including, in both cases, concerns about the availability of the nominated partner funding) to the proponent's ability to commence construction within six months, as was required by the published Guidelines; and
- Brisbane City Council's application for \$35.0 million in Program funds towards the estimated \$200.0 million cost of the Brisbane City Hall Restoration Project. The departmental risk assessment concluded that most of the identified project delivery risks (which had been assessed as *Severe*), project sustainability risks (which had been assessed as *High*) and risks to the proponent's financial position (which had been assessed as *Severe*) could be managed through the Funding Agreement. However, the 'significant size of the unidentified and unsecured partner funding, \$165 million' was assessed as being a severe risk to project delivery and that, together with construction not being due to commence until January 2010 (therefore not meeting the requirement to

¹⁴⁶ The proposed project scope under both the original and revised applications was: an indoor stadium space of 2 800 square metres; eight retractable basketball backboards and four scoreboards; ablutions (to accommodate increased patrons/ visitors); walkway covering an area of 132 square metres; storage area; and carpark consisting of alterations to the existing carpark to concrete bays and new parking including drainage, lighting and landscaping and road works of a bypass road including landscaping, lighting and drainage. The revised scope reduced the size of the indoor stadium to three courts; reduced the basketball backboards to six and the scoreboards to three; reduced the ablutions to accommodate a smaller stadium and reduced the carpark and facility access roads to a gravel overflow carpark.

commence construction within six months), the project could not be recommended for funding.

Risk treatment

4.47 The department's documented procedure was that any application with one or more *High* or *Severe* risks identified required a risk treatment or treatments to be identified.

4.48 For those 188 shortlisted projects where the risk assessment had not identified the application as either non-compliant or too high a risk for funding, the proposed risk treatments were identified by the department in the summaries provided to the Minister. With one exception, the department concluded that:

After considering the findings of the Independent Viability Assessment provider the Department has determined that the treatments are addressed through controls in the Funding Agreement (Contract).¹⁴⁷

4.49 In this respect, as illustrated by Table 4.3, there were 23 projects not approved for funding that had been assessed as having *Low* or *Moderate* project deliverability and project sustainability risks. By way of comparison, there were 50 projects approved for funding that had been assessed as representing *High* or *Severe* project deliverability and/or project sustainability risks in the absence of any risk treatment. This approach gives added emphasis to risk treatments being effective.

¹⁴⁷ The exception related to the application from Manly City Council for \$4.4 million in Program funds towards the estimated \$5.5 million cost of the 'Ocean Beach Promenade Improvements/Coastal Protection—Stage 4' project. In that case, there was no specific statement as to how the proposed risk treatments would be implemented.

Table 4.3

Number of projects approved in relation to the level of assessed project deliverability and sustainability risk (prior to any risk treatment)

		Project Delivery					
		Very Low	Low	Moderate	High	Severe	Indeterminate
Project Sustainability	Very Low	0	4	8	4	0	0
	No. Approved	0	4	6	1	0	0
	Low	0	17	35	6	1	0
	No. Approved	0	13	25	2	1	0
	Moderate	2	6	38	33	2	0
	No. Approved	2	5	32	20	1	0
	High	0	1	11	23	0	0
	No. Approved	0	1	6	15	0	0
	Severe	0	0	0	1	0	0
	No. Approved	0	0	0	0	0	0
	Indeterminate	0	0	3	2	0	3
	No. Approved	0	0	1	2	0	0

Source: ANAO analysis of DITRD LG data.

4.50 It is not feasible for all project risks to be managed in a cost-effective manner through Funding Agreements. For example, the department intended to guard against the risk of cost increases through clauses in the Funding Agreement which stated that the Commonwealth was not responsible for the provision of additional funds to meet any increased costs,¹⁴⁸ together with defining the funded activity in a way that guarded against any reductions in scope. These are standard clauses in the Funding Agreements used by DITRDLG. In other infrastructure funding programs delivered by DITRDLG that have been examined by ANAO, they have not proven to be effective in compensating for any shortcomings in project cost estimates at the time funding decisions were made with the resulting consequence frequently being a need to agree to a reduction in scope (thereby reducing the outcomes achieved from those on which the original approval was based), and/or the Commonwealth having to agree to provide additional funding to enable the project to be completed.

4.51 It is also difficult, once funding has been approved for a project, to treat risks that relate to incomplete information having been available to inform decisions about which projects should be approved for funding. In this respect, for a number of approved projects, the Funding Agreement included a requirement for applicants to provide the missing key information before they would receive payments subsequent to the initial payment that had been made upon signing of the Funding Agreement. In a number of instances, the subsequent provision of this information actually raised significant issues concerning the delivery of the funded works. An example of this was outlined at paragraphs 4.24 to 4.27 in respect to Byron Shire Council's application for \$8 million towards the \$14.9 million estimated cost of the Ewingsdale Sports and Cultural Facility, for which total estimated project costs increased by \$9 million after advice was obtained from an independent quantity surveyor.

4.52 In this context, attempting to manage information gaps through the Funding Agreement undermined the strong approach to incomplete applications that had been taken in the published Program Guidelines and

¹⁴⁸ There is also a risk, heightened for programs whose objective is to provide economic stimulus through targeted and timely expenditure, of projects being delivered significantly below the initial estimate, due to shortcomings in that estimate. Under the terms of the Funding Agreement, savings are required to be returned to the department in proportion to the Commonwealth's intended contribution to the project.

application form (see, for example, paragraphs 3.21 to 3.24). It was also inequitable when considered in terms of councils that had submitted complete applications. In this respect, as outlined at paragraph 3.25, a complete application was defined as one where the application form was fully completed and all required documentation was attached, including recent business plans, feasibility studies, detailed project plans and project costings. Consistent with this approach, the Program Guidelines outlined information that would be required for the department to undertake its risk assessments with the Frequently Asked Questions document including the following supporting guidance:

Why do I have to provide all of this information?

In order to assess projects, the department needs to make reasonable enquiries [*sic*] to ensure the proposed expenditure is an efficient and effective use of public money and is in accordance with Commonwealth policies.

Based on the information provided in your application, the department will undertake a risk analysis in accordance with the RLCIP – Strategic Projects guidelines.

For some projects the department may also request an Independent Viability Assessment to determine the extent of any risks.

4.53 The importance of sufficient information being provided to inform the decision about whether funding should be approved was reinforced through the application form, including a checklist for applicants to confirm that they had provided the requested information (see, for example, Figure 4.5). However, for 138 of the 206 projects subject to a risk assessment (67 per cent) the risk assessment identified that one or more key items of information had not been included with the application. The department advised the Minister that seven of the 138 projects with one or more items of key information missing were considered to be too high a risk to be funded. In four of the seven instances, the reason given for this conclusion related to insufficient information being provided to assess the adequacy of many aspects of the project.

4.54 However, other applications that were assessed as missing similar items of key information were recommended to the Minister for approval subject to funding availability, and approved for funding. Specifically, a total of 90 applications where the risk assessment had identified that one or more key items of information were missing were approved (an approval rate of

65 per cent) for a total of \$361.5 million in Program funding, but the majority of these projects have been delayed in implementation:

- 88 were due to have received their second milestone payment (second payments for the remaining two projects were due in April 2010) but only 11 of these projects (13 per cent) had advanced sufficiently to have received the second milestone payment;¹⁴⁹ and
- included in these 88 projects were 53 that were due to have also received their third milestone payment, but only four (7.5 per cent) had advanced sufficiently to have received this payment; and
- none of the seven projects that should have received all grant payments by 31 March 2010 had been paid in full.

¹⁴⁹ For seven of the 11 projects where the second payment had been made, the payment was made as scheduled, or within one month of the scheduled date.

Figure 4.5**Example of application checklist for attaching key supporting information****16. Please provide the following:**

- | | Attached |
|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| • 3 year cash flow projections for your organisation including: | |
| Projected capital cost of establishing project | <input checked="" type="checkbox"/> |
| Projected revenues for future years | <input type="checkbox"/> |
| Projected ongoing costs for future years | <input type="checkbox"/> |
| Any assumptions, calculations and data underlying projections | <input type="checkbox"/> |
| • Last 3 years annual reports for your organisation | <input checked="" type="checkbox"/> |
| • Proof of loan approvals (if applicable) | <input type="checkbox"/> |
| • Cost estimates and/or quotations for products or services included in the project attached (include project cost evidence, ie quotes) | <input checked="" type="checkbox"/> |
| • Feasibility Study for your project | <input type="checkbox"/> |
| • Business Plan for your project with cash flow projections | <input type="checkbox"/> |
| • Detailed Project Plan for your project | <input type="checkbox"/> |
| • Completed Budget template (Attachment A) | <input type="checkbox"/> |
| • Authorisation to Undertake an Independent Viability Assessment (IVA)
At Attachment B | |

Source: Extract from DITRD LG records.

4.55 More broadly, none of the 42 approved projects that had been assessed as having a *Severe* or *High* project delivery risk rating (pre-risk treatment) (see Table 4.3) were assessed as having a *Severe* or *High* post-treatment project delivery risk. However, demonstrating the ineffectiveness of treating such risks through the Funding Agreement terms and conditions, whilst second milestone payments were due before the end of March 2010 for each of the 42 projects, only five projects (12 per cent) had advanced sufficiently to have actually received the second payment when it was due.

4.56 When circumstances dictate that a grants program needs to be designed and implemented in a short time period to meet policy objectives, there can be a tension between allowing some latitude to applicants that are unable to provide a complete application and treating all applicants equitably. In this respect, the design of the Strategic Projects component recognised that, notwithstanding the short timeframe for applications to be submitted, complete applications were more likely to commence and proceed in a timely manner, therefore optimising the economic stimulus impact of the program. It was for this reason that the Program Guidelines emphasised that only complete applications would be considered for funding.

Recommendation No.1

4.57 ANAO *recommends* that the Department of Infrastructure, Transport, Regional Development and Local Government improve the effectiveness of its risk management practices in assessing applications to grant programs by clearly discriminating between those risks that should be addressed before the application is considered for approval, those that require appropriate treatment prior to a Funding Agreement being executed and those that can be managed through a Funding Agreement.

DITRDLG response

4.58 DITRDLG agreed to the recommendation.

5. Selection of projects to be funded

This chapter outlines the importance of assessment criteria being developed and published to potential applicants prior to the grant application process commencing, and examines the criteria applied to select the projects that were approved for funding under the first round of the Strategic Projects component, as well as the documentation supporting the funding decisions that were made.

Prioritisation and shortlisting criteria established: 28 January 2009, 9 February 2009 and 19 March 2009

5.1 Applications to the Strategic Projects component of the RLCIP originally closed on 23 December 2008. As outlined at paragraph 1.26, at its meeting on 28 January 2009, the Strategic Priorities and Budget Committee of Cabinet considered increasing the amount of funding allocated to the Strategic Projects component of the RLCIP. Also at this meeting, the Committee noted that:

- 335 applications had been received requesting a total of \$1.2 billion in Strategic Projects program funding in response to the call for applications for the \$50 million in available program funding; and
- DITRDLG had completed a preliminary assessment of all applications with the result that 100 did not meet the criteria that had been applied.

5.2 In this latter respect, advice prepared by the department for its Minister in December 2008 had advised that non-compliant projects were:

- those that were submitted after the deadline for applications had closed;
- the applicant was an ineligible organisation;
- the project was ineligible;
- or the application was incomplete.

5.3 The advice prepared by the department had further stated that:

Given the demand for funding significantly exceeds the \$50 million available, the department will focus assessment on projects that best meet the RLCIP – Strategic Projects Guidelines, that is, those projects that satisfy the preference for larger projects and projects which include partnership funding. This will

ensure that the timetable of assessment provided in the Guidelines can be achieved.

For projects to satisfy this preference and to prioritise the group of projects for consideration and assessment, the department has identified the largest total projects bids with a minimum partnership funding percentage of 20 per cent (partnership contributions less than 20 per cent are considered insignificant as they often equate to the contingency allocation on larger projects) that could be funded with \$400 million. Based on preliminary work, 61 projects meet this preference, requesting a total of \$411 million in Commonwealth funding with total project costs of \$1.5 billion. This number may decrease following project assessment, but is certain to provide a list of recommended projects that far exceeds the \$50 million of available funding for your decision on which projects should be funded.

Additionally, the department will provide you with a list of the smaller projects that have not been assessed and those projects that are non-compliant.

5.4 Amongst other things,¹⁵⁰ the Committee decided at the 28 January 2009 meeting that the department should reconsider the 100 applications it had preliminarily assessed as not meeting the program criteria in light of the Committee's predisposition to increase the quantum of funding available for the Program. The Committee also decided that the prioritisation of applications 'deemed suitable for funding' should be based on:

- co-investment opportunities; and
- the indicative timetable for projects, with priority projects in the following order:
 - those that can commence and be completed in 2009;
 - those that can commence in 2009 and be completed by mid-2010; and
 - those that can commence in 2009 and be completed by end 2010.

5.5 Further in this respect, the then Prime Minister's 2 February 2009 correspondence to the Minister for Infrastructure, Transport, Regional Development and Local Government confirming the allocation of an extra

¹⁵⁰ See paragraph 1.27.

\$500 million to the Strategic Projects component¹⁵¹ reiterated the 28 January 2009 decision that priority was to be given to projects that could proceed quickly and for which co-investment from councils and other partners, such as State and Territory governments, was proposed.

5.6 The Nation Building and Jobs Plan was announced on 3 February 2009, including an additional \$500 million for the Strategic Projects component of the RLCIP. As outlined at paragraph 2.9 after securing the passage of the \$42 billion Nation Building and Jobs Plan legislation, the Program Guidelines were updated on 13 February 2009 to:

- reflect the increased Program funding and re-opening of applications;
- remove the section outlining the role the Australian Council of Local Government was to play in the assessment of applications;¹⁵² and
- change the payment arrangements for approved grants.

5.7 The opportunity was not taken to include in the revised Program Guidelines the prioritisation criteria settled on 28 January 2009.

5.8 As discussed at paragraphs 4.3 to 4.6, criteria for the shortlisting of applications for risk assessment were approved on 9 February 2009 (prior to the re-opening of applications on 13 February 2009) and 19 March 2009 (after the re-opened round had closed to applications on 6 March 2009), but, again, in neither case were the criteria included in published Program Guidelines or guidance.

5.9 In June 2010, the department advised ANAO that:

The Cabinet decisions [*of 28 January 2009, 9 February 2009 and 19 March 2009*] which set the requirements for the program reflect the way in which the Government was dealing with the emerging financial crisis. The intent of this

¹⁵¹ See paragraph 1.28.

¹⁵² As outlined in Chapter 1, the RLCIP was announced by the then Prime Minister on 18 November 2008 at the ACLG's inaugural meeting as 'a direct partnership between local and federal governments to undertake nation-building.' Accordingly, the Program Guidelines released on 21 November 2008 had envisaged that the ACLG would be consulted on the assessment of applications, as follows: 'Those applications ranked by the Department as recommended will be provided to the Australian Council of Local Government (ACLG) for its comment. These comments will be provided to the decision-maker. ACLG members will need to sign a confidentiality agreement and declare any conflicts of interest.' Similar advice was included in the Frequently Asked Questions guidance document released on 19 December 2008 in relation to the program.

was to maintain confidence and demand in the economy through projects which would provide jobs and confidence in investment.

Risk assessment did not remove the need for assessment criteria to differentiate between competing applications

5.10 On 14 April 2009, DITRDLG advised the Minister for Infrastructure, Transport, Regional Development and Local Government that, applying the criteria approved by Cabinet on 19 March 2009, the department had shortlisted 202 applications of the 484 that had been received, of which it had concluded 188 merited being considered for possible funding approval based on the risk assessments undertaken. To inform the Minister's consideration of the department's advice, a detailed briefing package was provided,¹⁵³ including:

- five project lists in the form of excel spreadsheets,¹⁵⁴ comprising:
 - a list of the 202 applications that had been shortlisted against criteria approved by Cabinet on 19 March 2009;
 - a list of the 188 shortlisted applications that were 'recommended subject to available funding'. The Minister was advised that these projects sought, in aggregate \$808.9 million in Program funding. In effect, the purpose of this list was to identify to the Minister those projects that the department recommended should be considered for funding, rather than a ranked list of projects recommended for approval within the available \$550 million Program funding envelope;
 - a list of seven shortlisted projects identified through the risk assessment process as being either non-compliant or ineligible;
 - a list of a further seven shortlisted projects that were not recommended for funding because of the assessed level of risk; and
 - a list of all 484 applications ultimately received;

¹⁵³ Both hard copy and electronic versions of the documents were provided to the Minister's Office. The electronic versions of the project lists contained additional data to that evident from examination of the hard copy records.

¹⁵⁴ Each list sorted the projects by State.

- information on the department's administrative processes, the risk assessment methodology employed by the department, the Minister's obligations under the FMA Regulations and the processes by which Funding Agreements would be negotiated and managed; and
- a summary brief in respect to each of the 202 projects that had been the subject of a risk assessment, outlining the results of the assessment against each of the five risk categories and any other factors the department wished to draw to the Minister's attention with respect to the project. Each such document identified whether, on the basis of its risk assessment and proposed risk treatment, the department had concluded the project merited being considered for funding, was either ineligible/non-compliant or represented too high a risk for funding even after the implementation of any identified risk treatment strategies.

5.11 In that context, the purpose of the risk assessment process undertaken in respect to shortlisted applications (see Chapter 4) was to inform the Minister's consideration as to which projects should be further considered for possible approval of funding. It was not intended to prioritise or rank competing, eligible applications. This was evident from the results of the risk assessment, with 188 projects seeking \$808.9 million in Program funding being assessed as eligible, compliant and of a sufficiently low risk such that the department recommended that they could be considered for funding. Clearly, in the context of total Program funding of \$550 million being available, a further assessment stage would be necessary in order to identify which of the 188 projects should be approved for funding.

Assessment criteria documented: 22 April 2009

5.12 On 17 April 2009, the Minister for Infrastructure, Transport, Regional Development and Local Government sought the then Cabinet Secretary's approval to bring forward an update on the implementation of the Strategic Projects component of the RLCIP to the Cabinet meeting scheduled for 22 April 2009. Specifically, the Minister advised that:

An assessment of projects that met the Government's criteria has been completed and Ministers will be in a position to determine specific funding priorities.

You will appreciate that for this program to achieve its desired results, it will be important that we move swiftly to finalise which proposals are approved for funding.

5.13 On the afternoon of 21 April 2009, the Minister's Office emailed the department and advised that the Minister had asked for paperwork to be prepared for the next day's Cabinet meeting. The department was further informed that:

After considering the department's assessment of projects, the Minister is recommending a shortlist of projects to Cabinet totalling approximately \$550 million for Cabinet approval. I will provide the list as quickly as possible. That list has been derived taking into account one or more¹⁵⁵ of the following factors:

- Geographic distribution of projects;
- Likely economic stimulus and community impact, drawing on population sizes, capacity within local government authorities, percentage of partnership funding, and nature of projects; and
- Whether alternative funding sources are available or have been provided.

Further, where applicants sought increased funding in the re-opened round for the same project, the Minister has also decided to limit the funding to the original amount requested.

5.14 This email was used to prepare a letter from the Minister to the Cabinet Secretary dated 22 April 2009 in which he summarised the assessment results and sought:

- Cabinet endorsement of 136 projects with a total funding contribution of up to \$539.672 million (attached to the letter was a list of the 136 projects that the Minister had recommended that Cabinet approve for funding¹⁵⁶); and

¹⁵⁵ In December 2009, the Minister's Office advised ANAO that, whilst both this email and the letter signed the next day by the Minister (see paragraph 5.14), stated that the list of projects recommended by the Minister for funding approval had been derived taking into account 'one or more' of the three criteria, the correspondence had been poorly worded in that each application was assessed against all three of the criteria.

¹⁵⁶ As outlined at paragraph 6.4, the 22 April 2009 list of projects recommended for funding approval was identical in most respects to that provided to the department on 21 April 2009.

- Cabinet consideration as to whether suggested funding of up to \$10 million should be provided in respect to the application from Brisbane City Council for funding towards the renovation of Brisbane City Hall.¹⁵⁷

5.15 In terms of the criteria applied in developing his recommendations for funding, the Minister's correspondence stated that:

- application of the shortlisting criteria agreed at the 19 March 2009 Cabinet meeting had resulted in 202 of the 484 applications received being placed on a shortlist for assessment. In total, these 202 applications had sought \$911.1 million in Program funding;
- DITRD LG had undertaken a risk assessment of each of the 202 shortlisted projects. The department had concluded that seven of the applications were non-compliant with the Program Guidelines, a further seven represented too great a risk to be funded, and the remaining 188 projects could be considered for funding; and
- 'in refining this list to bring forward to Cabinet recommendations for the \$550 million allocated for the RLCIP—Strategic Projects program, I took into account the following factors:
 - a) the geographic distribution of projects;
 - b) the likely economic stimulus and community impact of projects, drawing on population sizes, capacity within local government authorities, percentage of partnership funding and the nature of the projects; and
 - c) the availability of alternative funding for projects.'¹⁵⁸

5.16 As noted in Chapter 2, revised Program Guidelines for the Strategic Projects component were published on 13 February 2009. The assessment criteria documented on 22 April 2009 were not published at that time, or subsequently. This was notwithstanding that the House Standing Committee had recommended in its November 2008 Interim Report that key assessment criteria should be defined 'in the clearest possible way' and that the

¹⁵⁷ As noted subsequently at paragraph 5.37, this grant was approved by Cabinet. The Brisbane City Council application is also discussed further at paragraphs 4.46 and 5.42.

¹⁵⁸ ANAO analysis of the second and third criteria is included later in this chapter. ANAO analysis of the distribution of funding, including geographic and electoral distribution, is included in Chapter 6.

department should ensure that ‘applicants and departmental staff are aware of these criteria’.¹⁵⁹ In this respect, the report of the Strategic Review of Grants of July 2008 had commented that:

Potential applicants and other stakeholders have a right to expect that program funding decisions will be made in a manner, and on a basis, consistent with the published program guidelines and selection documentation.¹⁶⁰

5.17 In terms of the design of the Strategic Projects component, there was no documented consideration given either in November 2008 when the initial \$50 million component was designed, or in January/February 2009 when consideration was given to increasing Strategic Projects component funding (by which time it was clear that the application round would be over-subscribed) to developing appropriate assessment criteria. As a corollary, there was also no documented consideration given to other possible assessment criteria that might have targeted funding towards projects most likely to have contributed to the program objectives of creating local jobs and stimulating local economies in the short term and medium term.

Economic stimulus criterion

Creation and protection of jobs

5.18 One of the principal motivations of the Government’s economic stimulus package was to support employment.¹⁶¹ However, the Program Guidelines for the Strategic Projects component of the RLCIP did not advise councils that the creation or preservation of jobs was an objective of the Program, or that applications would be assessed having regard to the number and nature of the envisaged employment outcomes of the project either during the construction stage, or ongoing. Similarly, whilst the application form asked

¹⁵⁹ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Proposals for the new Regional and Local Community Infrastructure Program*, Interim Report, November 2008, Recommendation 22, p. 56.

¹⁶⁰ *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., pp. 54–66.

¹⁶¹ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *The Global Financial Crisis and regional Australia*, November 2009, p. 57.

councils to describe their project and what it would deliver, the application form did not seek data on the envisaged employment outcomes of the project.

5.19 At the time recommendations to Cabinet on which projects should be funded were being finalised, some interest was taken in the employment outcomes of shortlisted projects. Specifically, in respect to draft media releases for the shortlisted projects,¹⁶² the Minister's Office made the following request of the department on 20 April 2009:

Although decisions are subject to Cabinet, I am going through all draft releases provided in order to be prepared. Please see attached—for checking. Where possible, could you please provide job figures and check amounts.

5.20 However, the Program Guidelines had not indicated that a focus of the program was creating or preserving jobs, and the application form had not required that councils submit data on the extent to which their project(s) would support employment (such as the number of jobs that the project was expected to create and/or preserve). As a result, there were few instances where media releases were able to include 'job figures' as requested by the Minister's Office. Specifically, of the 137 official announcements of funding approval, there were six (four per cent) where the media release mentioned a specific expected employment outcome.

5.21 The program management arrangements also did not include any benchmarks against which to assess any employment outcome claims that may have been made by applicants, with the number of jobs expected to be created in relationship to the value of grant funding sought varying considerably. For example:

- Hobson Bay City Council's successful application for \$9 million in Program funding for its Regional Kitchen Project stated that construction of the facility would support an estimated 30 jobs during construction and that the kitchen itself would support an additional 55 ongoing positions, and provide training and career paths for

¹⁶² On 9 April 2009, draft media releases announcing Strategic Projects funding had been provided by the department to the Minister's Office in respect to 200 of the 202 projects that the department had assessed as meeting the 19 March 2009 shortlisting criteria (including those projects that were subsequently assessed by the department as being ineligible/non-compliant or not recommended due to their high level of assessed risk). See further at paragraphs 6.25–6.27.

employees in the food industry (a ratio of \$300 000 in grant funds for each construction job and an overall ratio of \$105 882 in grant funds per job);

- the supporting material for Launceston City Council's successful application for \$4 million in Program funding towards the Aurora Stadium Northern Stand Redevelopment project stated that, during the 12 month construction phase, 60 full-time equivalent jobs would be created, drawn from a wide cross-section of the trades sector (a ratio of nearly \$67 000 in grant funds for each job created); and
- Townsville City Council identified in its successful application for \$16.2 million in Program funding for its Townsville CBD (Flinders Street) Redevelopment Project that 954 full-time equivalent construction related jobs would be created and support 207 in the retail sector (a ratio of \$17 000 in grant funds for each construction job created and an overall ratio of \$13 969).

5.22 By way of comparison, for the predecessor Regional Partnerships Program, the department's benchmarks for assessing the value for money of proposed project outcomes included, where job creation was a focus, that each ongoing fulltime or equivalent job be supported by less than \$25 000 in grant funds.¹⁶³

Timeliness of construction activity

5.23 In April 2010, the Department of the Treasury (Treasury) advised ANAO that:

- its forecasts for the effects on the economy of the Nation Building and Jobs Plan were based on the programs being delivered in accordance with budgeted expenditure; and
- assumed minimal lags in our forecasts as the programs were to be designed to minimise any lags between the Commonwealth making payments and economic activity taking place.

¹⁶³ ANAO Audit Report No. 14 2007–08, Volume 2—Main Report, op. cit., p. 150.

5.24 In this context, the Strategic Projects component was budgeted to have \$300 million paid to councils in 2008–09 with the remaining \$250 million to be paid out in 2009–10. In other words, economic stimulus under round one of the Strategic Projects component was budgeted to be delivered before June 2010. Further in this respect, the program management arrangements explicitly addressed the importance to the Program of timely construction activity. Specifically:

- the Program Guidelines (and the Frequently Asked Questions document) emphasised that eligible projects were those that involved additional stages of a project already underway or, alternatively, the project must be ready to commence construction within six months of signing the Funding Agreement;
- the Program Guidelines advised that between 25 per cent and 50 per cent of funds would be released to proponents once the Funding Agreement was signed—this was intended to assist projects to commence quickly; and
- the application form required that applicants provide:
 - in circumstances where the project had yet to commence, the expected construction commencement date; and
 - advice as to how long the project was expected to take to be completed.

5.25 Consistent with this approach, on 28 January 2009 the Government had decided¹⁶⁴ that priority was to be given to projects that could proceed quickly. In particular, the Government decided that projects should be prioritised for funding in the following order:

- those that can commence and be completed in 2009;
- those that can commence in 2009 and be completed by mid-2010; and
- those that can commence in 2009 and be completed by end 2010.

¹⁶⁴ See further at paragraph 5.4.

5.26 These criteria were consistent with those established for other economic stimulus programs including in the Nation Building and Jobs Plan.¹⁶⁵ The timeframes set by the Government on 28 January 2009 as being a focus for projects under the Strategic Projects component of the RLCIP were also consistent with Treasury modelling (see, for example, Figure 7.1) with Treasury advising ANAO in April 2010 that:

The medium-term infrastructure spending profile (subsequently published in the 09–10 Budget papers) showed ‘medium-term’ infrastructure spending ramping up in late 2009 and through 2010. The overall stimulus had its largest impact in 2009, but the infrastructure elements were designed to provide ongoing support to the economy during what we forecast would be a period of protracted weakness lasting well into 2010 and 2011.

Treasury modelling assumed (ex ante) that the infrastructure construction activity funded through the Nation Building and Jobs Plan would line up closely with this profile of spending.

5.27 In this context, the Strategic Projects component of the RLCIP was budgeted to have \$300 million paid in 2008–09 (of which \$223 million was actually paid out), with the remaining \$250 million to be paid out in 2009–10. Accordingly, the budget profile was also consistent with the prioritisation criteria established on 28 January 2009.

5.28 Of the 484 applications received, 346 (seeking total funding of \$1.27 million) related to projects that the relevant council proposed to deliver within the desired economic stimulus timeframe (see Table 5.1). Of these 346 projects, 126 (seeking a total of \$455.3 million in Program funding) had been shortlisted by the department¹⁶⁶ and categorised as ‘recommended subject to available funding’. In addition to these 126 applications, there were a further five projects recommended for approval by the Minister that were also consistent with the desired economic stimulus timeframe. As a consequence of the application of the assessment criteria documented on 22 April 2009:

- 92 applications relating to projects that were proposed to be delivered within the desired economic stimulus timeframe (which had sought a

¹⁶⁵ See, for example, paragraphs 3.15 and 3.17 in respect to the Building the Education Revolution program.

¹⁶⁶ Applying the criteria approved by the Government on 19 March 2009 (see paragraphs 4.6 and 5.8).

total of \$345.2 million in Program funding) were approved for \$314.2 million in Program funding¹⁶⁷;

- 39 of the projects that were proposed to delivered within the desired economic stimulus timeframe (seeking a total of \$138.8 million in Program funding), and which had been 'recommended subject to available funding' by the department, were not approved for funding; and
- funding totalling \$235.4 million was approved for 45 projects that, according to the application submitted, would not be completed within 18 months of construction commencing. This was reflected in the terms of the various Funding Agreements signed in June and July 2009, with the completion dates for the Commonwealth-funded activities ranging between 28 September 2009 and 30 July 2012.

¹⁶⁷ The first monetary amount for approved applications in Table 5.1 relates to the amount requested in the respective applications. In allocating funding to projects, the view was taken that councils that increased their funding bids for essentially the same project between the December 2008 and March 2009 application processes should be allocated only their original bid (see paragraph 5.13). Accordingly, the second amount relates to the amount of funding approved by the Government rather than that sought in the final application submitted by the relevant council. The impact the approach taken in this respect had on project outcomes is examined in the Chapter 7.

Table 5.1

Indicative timetable for projects: applications and approved

Delivery timeframe identified in application	Applications received			Applications shortlisted as 'recommended subject to available funding'			Applications approved			Applications shortlisted but not approved		
	#	%	\$m	#	%	\$m	#	%	\$m	#	%	\$m
0-6 months	42	8.7	132.7	12	6.4	33.2	9	6.6	24.4	3	5.3	8.8
7-12 months	160	33.1	544.3	64	34.0	209.1	46	33.6	150.2	20	35.1	64.7
13-18 months	144	29.8	594.1	50	26.6	213.0	37	27.0	170.6	16	28.1	65.2
Sub-total:	346	71.5	1 271.1	126	67.0	455.3	92	67.2	345.2	39	68.4	138.8
Greater than 18 months	130	26.9	753.0	60	31.9	344.7	44	32.1	284.8	17	29.8	95.0
Not specified in application	8	1.7	25.2	2	1.1	8.8	1	0.7	5.1	1	1.8	3.8
	484	100	2 049.3	188	100	808.9	137	100	635.1	57	100	237.5

Source: ANAO analysis of DITRD LG data.

5.29 The project spreadsheets provided by the department to the Minister included the data sought in the application form on the proposed commencement date for each project, and its expected duration. However, rather than considering whether projects were expected to commence and be completed within the desired economic stimulus timeframe, the Minister's correspondence of 22 April 2009 stated that the 'likely economic stimulus and community impact of projects' was assessed by 'drawing on' population sizes of council areas, the 'capacity within local government authorities' to deliver the projects, percentage of partnership funding and the 'nature of the projects'. The spreadsheets provided to the Minister included data for each project on:

- the population within the relevant council area, which was relied upon as an indicator as to the capacity of council's to deliver projects (larger councils were considered to be more capable of delivering timely projects¹⁶⁸);
- the partner funding percentage; and
- categorisation of the nature of the proposed project.

5.30 However, there was no record as to how this data was used to arrive at an overall assessment of the extent to which the project was likely to provide economic stimulus. There was also no record as to the extent, if any, to which the available data on project timelines was taken into account in order to provide assurance that Program funding would provide economic stimulus when it was expected to be needed, and not a later time when stimulatory spending could have adverse macroeconomic effects.

Community support

5.31 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. In addition to the importance of

¹⁶⁸ ANAO's audit of projects delivered by local government under other funding programs (namely: the Regional Partnerships Program, the Strategic Regional Program/Off Network Projects Program, Black Spots Program and Roads to Recovery Program), as well as a random sample of projects funded under the Strategic Projects component of the RLCIP, has identified that smaller councils are no less likely to deliver a project on time than larger councils.

selection criteria being published in the program guidelines, the Strategic Review of Grants commented that:

The extent to which supporting material (such as letters of support) may be taken into account in the selection of successful applications should be clearly set out both in the program guidelines and in the related selection documentation.¹⁶⁹

5.32 No community support assessment criterion was set out in the Program Guidelines for the Strategic Projects component. In addition, there were no statements in either the Program Guidelines or Frequently Asked Questions document indicating to potential applicants that demonstrating community support for the application would increase its chances of receiving funding.

5.33 However, on 20 April and 21 April 2009, the Minister's Office instructed the department that, on the basis of community support for the project (see Table 5.2), five projects were to be subject to a risk assessment. Four of the projects had not met the shortlisting criteria for risk assessment established on 19 March 2009 and the fifth project had already been subject to a risk assessment, with the department concluding it was ineligible. The Minister's Office advised the department that further risk assessments were being sought so that the Minister could decide whether to include these on the list of projects he would be recommending that Cabinet approve for funding. Each of the five projects was subsequently recommended by the Minister to Cabinet for approval, and was approved for funding.

¹⁶⁹ *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., p. 56

Table 5.2**Projects the Minister asked be subject to a risk assessment on the basis of community support: Minister's Office advice to the department**

Date and Time	Instructions from Minister's Office	Reason given for project to be subject to a risk assessment
20 April 2009, 3:37pm	In reviewing the shortlist to take to Cabinet, the Minister would also like to have the applications from Bega Valley Shire Council and Richmond Valley Council assessed.	The Minister has had many community representations about the proposed project and would like to be more informed about the merits before taking a final shortlist to Cabinet.
21 April 2009, 1:00pm	In further reviewing the shortlist to take to Cabinet, the Minister would also like to have the applications from Alexandrina Council and Coolamon Shire Council assessed.	The Minister has had strong representations about these applications, particularly from the Members for Mayo, Riverina and Farrer, and he would like to be more informed about the merits before taking a final shortlist to Cabinet.
21 April 2009, 6:34pm	In further reviewing the shortlist to take to Cabinet, the Minister would also like to have the application from Etheridge Shire Council (the group application) assessed.	The Minister has had strong representations about this application from the community and the Member for Kennedy, both of whom have highlighted that the flooding of the bridge that the application proposes to upgrade, closed Gulf communities for up to 10 weeks this year. Before making a recommendation to Cabinet, he would like to be more informed about the merits.

Source: ANAO analysis of departmental records.

Availability of alternative funding criterion

5.34 Partnership (or 'cocktail') funding arrangements involve a project being financed from a range of different sources. It can also involve a project being divided into different components, so as to obtain funding from more than one source in order to deliver the overall project.

5.35 As outlined at paragraph 2.24, the published Program Guidelines had stated that preference would be given to applications for projects that included partnership funding. In addition, as outlined at paragraph 5.4, the prioritisation criteria established on 28 January 2009 required that priority be given to projects that involved 'co-investment opportunities'.

5.36 The project spreadsheets provided by the department to the Minister on 14 April 2009 included data outlining the extent to which each project

involved partner funding.¹⁷⁰ As illustrated by Table 5.3, projects with higher partner funding percentages were more successful in being approved for funding than those with lower partner funding percentages. This outcome is consistent with a preference being given to projects with partner funding.

Table 5.3

Partnership funding: project applications and approvals

Partnership funding percentage	Number of applications	Number of projects approved	Approval rate
No partner funding	49	1	2.0%
1% to 25%	195	39	20.0%
26% to 50%	144	55	38.2%
51% to 75%	77	34	44.2%
Greater than 75%	19	8	42.1%

Source: ANAO analysis of DITRDLG data.

Approval of projects

5.37 On 22 April 2009, Cabinet approved a total of \$549.672 million in funding for 137 projects. This comprised the 136 projects recommended by the Minister, plus the partial funding of up to \$10 million¹⁷¹ for the Brisbane City Council application also suggested by the Minister for Cabinet consideration (see paragraph 5.14). More specifically, the projects approved for funding comprised:

- 131 selected from the list of 188 applications shortlisted by the department and categorised as ‘recommended subject to available funding’ on the basis of the department’s risk assessment (see further at paragraphs 4.48 and 5.10);
- one of the seven shortlisted projects where the department’s risk assessment had concluded that the risks were too high to merit being approved for funding (see further at paragraph 4.46);

¹⁷⁰ Specifically, it included the total estimated project cost, amount of funding sought from the Program, amount of partnership funding and the percentage of the total estimated cost to be met by project partners.

¹⁷¹ The application had requested \$35 million.

- one of the seven shortlisted projects that the department's risk assessment had identified as being ineligible or non-compliant (see further at paragraphs 3.37, 3.40 and 4.46); and
- four applications that had not been shortlisted but a risk assessment was subsequently undertaken at the request of the Minister (see further at paragraph 5.33), with this assessment concluding that they could be recommended subject to available funding.

5.38 Following the Cabinet meeting on the night of 22 April 2009, on 23 April 2009, in a joint interview with the Minister for Infrastructure, Transport, Regional Development and Local Government, the then Prime Minister announced \$2.4 million in Strategic Projects funding for the City of Swan's Swan River Regional Park development.¹⁷² Further, the Minister for Infrastructure, Transport, Regional Development and Local Government announced that:

This is the first announcement of the Strategic Projects section, \$550 million. Where projects had to be, each council could put forward a single project of value above \$2 million. We've gone through a rigorous assessment process and Cabinet has now approved a list of projects and those projects will be announced right now around the country and they'll be in proportion to the entire country.¹⁷³

5.39 On 30 April 2009, the Minister's Office informed the department that there had been an administrative error in the list of approved projects in that one project had been incorrectly included with another inadvertently omitted (the latter being the Macedon Ranges Council application for \$5 million¹⁷⁴ in Strategic Projects funding towards a new sports and aquatic centre at Kyneton). The Minister sought the then Prime Minister's agreement to an amendment to the list of approved projects, and this was provided by the then

¹⁷² The department's risk assessment noted that this was a five year staged \$25 million development project which included the construction of a riverside dual purpose path, boardwalks and viewing platforms through areas of environmental interest, interpretive signage and foreshore ecological restoration works.

¹⁷³ The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, Official Transcript of Press Conference, City of Swan, 23 April 2009, p. 2.

¹⁷⁴ Prior to being advised of the error, the department had begun preparing a Funding Agreement in respect of the wrongly included project. As the application for that project had sought \$5.117 million, the substitution of this application with that inadvertently omitted reduced the aggregate amount of program funding approved by \$117 000 to \$549 554 598.

Cabinet Secretary on 25 May 2009. Funding for the project that had been inadvertently omitted had been announced on 4 May 2009.

Reporting to the Finance Minister

5.40 The Finance Minister's Instructions of 16 January 2009 required reporting to the Finance Minister of:

- instances where a Minister approves a grant in respect to their own electorate—these reports were to be made 'as soon as practicable after the grant was approved'; and
- via an annual report due on 31 March for the preceding calendar year, all instances where Ministers had decided to award grants which the relevant department or agency had recommended be rejected, together with a statement of the reasons (that is, the basis) for the approval of each such grant.

5.41 Identical obligations have also been included in the CGGs. Two of the 137 projects approved for funding were in the Minister for Infrastructure, Transport, Regional Development and Local Government's electorate of Grayndler. DIRTDLG prepared correspondence to the Finance Minister in respect to these grants. Accordingly, on 11 August 2009 the Minister wrote to the Finance Minister in the following terms:

Although the projects were approved by Cabinet, in the interests of accountability and transparency and in the spirit of the Commonwealth Grant Guidelines July 2009, I would like to advise you of the projects in my electorate listed below.

- Council of the Municipality of Ashfield—Ashfield Council Centre Stage 2 Redevelopment Project
- Marrickville Council—Mackey Park Refurbishment

5.42 As noted, the Finance Minister's Instructions, and now the CGGs, also include obligations for the reporting to the Finance Minister of projects approved for funding that the department recommended be rejected. For calendar year 2009, the report to the Finance Minister was due by 31 March 2010. On 30 March 2010, the Minister for Infrastructure, Transport, Regional Development and Local Government wrote to the Finance Minister advising that there had been two instances in respect to the first round of the Strategic Projects component of the RLCIP where, on the basis of his recommendations,

Cabinet approved funding for a project that the department had recommended not be funded. These were:

- Etheridge Shire Council's Einasleigh River Bridge on Gulf Development Road project (approved funding of \$18.0 million), in respect of which the department had concluded in its project brief that:

As per the Community Infrastructure Program—Strategic Projects Guidelines, funding will not be available for activities such as transport infrastructure. The Department considers this project as non-compliant as funding will be used for transport infrastructure, a bridge and causeway.¹⁷⁵

- Brisbane City Council's Brisbane City Hall Restoration Project (approved funding of \$10.0 million).¹⁷⁶ The application submitted by council has sought Program funding of \$35.0 million towards estimated total project costs of \$200.0 million. In relation to that application, the department had concluded in its project brief that:

The Independent Viability Assessment (IVA) provider has noted under Project Delivery and Proponent's Financial Position that the proponents cash and cash equivalents are less than its required project contribution of \$165 million, and has suggested a pre-contractual treatment of seeking an undertaking by the proponent to confirm the funding of the \$165 million shortfall or demonstrate that it has the ability to meet this contribution through its cash holdings and additional borrowings.¹⁷⁷

Based on the information in the risk assessment by the IVA provider, the Department considers that the significant size of the unidentified and unsecured partner funding, \$165 million, to be a severe risk to the project delivery. The "City Hall 2010 Committee Report, October 2008" indicates that the project cost is beyond what is manageable by the proponent alone, and that State and Federal Government support is crucial to the success of the project as

¹⁷⁵ In his report to the Finance Minister, the Minister stated that funding was approved because 'Cabinet agreed to give consideration to disaster-affected areas. The funding for the Einasleigh River Bridge minimises the risk of the community being isolated by wet weather.'

¹⁷⁶ See paragraphs 4.46, 5.14 and 5.37.

¹⁷⁷ The IVA assessment of Proponent's Financial Position identified that the proponent had a solid net surplus in excess of \$100 million and a solid net asset position in excess of \$10 billion comprised mainly of property, plant and equipment. Further, the proponent had a strong and stable income in excess of \$1.5 billion over the assessed years. However, the IVA provider also identified that, as at 30 June 2008, the proponent was holding cash and cash equivalents of \$82.4 million, less than its required project contribution of \$165 million,

the proponent will not be able to deliver the project with just its own resources. There is no information provided that identifies the source of funding for the \$165 million of the partner funding required.

Construction is not due to commence until January 2010 and would therefore not meet the requirement to commence construction within six months.

In view of these concerns the Department is unable to recommend this project for funding.¹⁷⁸

Documentation of the application of the assessment criteria

5.43 ANAO's audit of the Regional Partnerships Program in 2007 identified potential benefits from the financial framework governing the expenditure of public money being improved. In particular, it highlighted that the provisions of the then-existing framework did not require approvers of proposals to spend public money, including Ministers, to record the basis on which they were satisfied that a proposal represents efficient and effective use of public money. In some circumstances this had left uncertainty as to the basis of decisions to provide a grant. In the interests of transparency and accountability, ANAO proposed that consideration be given to changes to the then-existing financial framework governing the expenditure of public money so as to require approvers of spending proposals to record the basis for their decision where this is not apparent from the existing documentation.¹⁷⁹ This recommendation was endorsed by both:

- the House Standing Committee, which recommended that changes to the financial framework be expedited so that the changes would be in place for the commencement of the new regional funding program;¹⁸⁰ and

¹⁷⁸ In his report to the Finance Minister, the Minister stated that funding was approved because the 'project has the capacity to deliver significant economic stimulus. Funding to be provided conditional upon partnership funding being confirmed and pre-contractual requirements being agreed.'

¹⁷⁹ ANAO Audit Report No.14 2007–08, Volume 2—Main Report, op. cit., pp 82–94 and Recommendation No. 2.

¹⁸⁰ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Proposals for the new Regional and Local Community Infrastructure Program*, Interim Report, November 2008, p. 59.

- the Strategic Review of Grants, which commented that:

In view of the clear evidence of irregularities in past decision-making on discretionary grants, and given public concerns in this respect, the Review considers that there is a strong case to mandate a new requirement on the approvers of grant program spending under FMA Regulation 9 to document the *basis*, as well as the *terms*, of their approvals.¹⁸¹

5.44 Consistent with the relevant recommendation of the House Standing Committee and in direct response to the relevant recommendation of the Strategic Review,¹⁸² on 4 December 2008 Cabinet agreed to amend the FMA Regulations to require approvers (whether a Minister or an official) to record the basis on which they are satisfied that spending proposals involving grants accord with the policies of the Commonwealth and make an efficient and effective use of public money.¹⁸³ The FMA Regulations were further amended to provide for the issuing of Commonwealth Grant Guidelines and to require officials performing duties in relation to the administration of grants to act in accordance with the CGGs.

5.45 Against this background, since 14 December 2007, Ministers have been required to obtain agency advice on the merits of each proposed grant before making any decision about whether to approve the grant.¹⁸⁴

Project assessment briefs

5.46 It is typical in grant programs for the results of the assessment process in relation to each application to be documented in a project brief provided to the decision-maker that provides a summary of the assessment against each criterion, as well as an overall conclusion/rating concerning the application.¹⁸⁵

¹⁸¹ *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., p. 9.

¹⁸² *ibid.*, Recommendation 9, p. 68.

¹⁸³ This requirement was initially introduced through Finance Minister's Instructions issued on 16 January 2009 (in the form of Estimates Memorandum 2009/09 *Changes to Grant Approval and Reporting Requirements*). With effect from 1 July 2009, changes to the FMA Regulations require that the approver must record the basis on which he or she was satisfied that the spending proposal complies with FMA Regulation 9.

¹⁸⁴ Initially this requirement was introduced through Finance Minister's Instructions (of 14 December 2007, later replaced by revised Instructions issued on 16 January 2009) and is now incorporated into the CGGs.

¹⁸⁵ The appropriate level of detail included in the assessment brief for each application depends upon the nature of the program.

In a competitive merit-based process, these individual assessments can then be used as the basis for determining an overall ranking of competing applications. Amongst other things, this approach helps decision-makers meet their obligation to record the basis of their approval of funding for those applications that have been successful. The preparation of project briefs for all applications also assists to provide transparency of the reasons for not approving grants for other applications.

5.47 For example, this was the approach generally adopted in respect to the administration of the predecessor Regional Partnerships Program.¹⁸⁶ Specifically, the department was responsible for assessing applications against the assessment criteria set out in the published Program Guidelines approved by the responsible Ministers and then made funding recommendations to the Ministerial decision-maker(s).¹⁸⁷ The funding recommendations were made in the form of a written assessment of each application, together with the department's recommendation as to whether the application should be funded or not, the amount of any recommended funding and any conditions the department recommended should be attached to any funding.¹⁸⁸ The material provided to the Ministerial decision-maker(s) included a description of the project and applicant, and noted the Federal electorate in which the project was located. The relevant Area Consultative Committee's summary comment and recommendation were also provided.

5.48 Under the Regional Partnerships Program, the Ministerial decision-maker(s) considered each application individually and indicated on the relevant assessment summary and/or covering Minute whether he or she agreed with the department's recommendation, including any recommended funding conditions.¹⁸⁹ Where Ministers did not agree with the department, they marked on the assessment summary and/or covering Minute whether funding was approved or not, the value of approved funding and any

¹⁸⁶ ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, op. cit., p. 12.

¹⁸⁷ In November 2005, the then Minister for Transport and Regional Services announced some changes to the delivery arrangements for Regional Partnerships funding including the formation of a Committee of three Ministers to make decisions about whether or not to approve funding for each application, rather than the previous approach of a single Ministerial decision-maker for each application.

¹⁸⁸ ANAO Audit Report No. 14 2007–08, Volume 2—Main Report, op. cit., p. 42.

¹⁸⁹ *ibid.*

conditions attached to any funding. Alternatively, the Minister(s) sometimes referred the application back to the department for further information, and then gave the application further consideration prior to making a final decision.

5.49 ANAO's audit of the Regional Partnerships Program concluded that the preparation of project assessments that recorded the results of the departmental assessment of applications against the published assessment criteria, together with an overall departmental recommendation, provided a basis for Ministers to be accountable for their decisions, including situations where the decision-maker did not agree with the departmental recommendation. The significant issues raised by that audit in respect to the administration of the Regional Partnerships Program related to departures from the published guidance as the documented assessments provided a sound record of those instances where Ministers agreed with departmental recommendations and those where they did not.

5.50 Similarly, the Strategic Review of Grants endorsed the preparation by departments of briefing material in respect to each grant application. In particular, the 31 July 2008 report of the Strategic Review commented in respect to documenting the basis on which funding is approved that:

In most cases this could be achieved quite simply and effectively by the insertion of a standard clause in the terms of the briefing advice presented to the decision-maker. Where a decision is taken at variance with the briefing advice and recommendation, however, or where the reasons for a decision differ from those cited in the briefing advice, a documented explanation of the reasons supporting the final decision would be required.¹⁹⁰

Risk assessment briefs prepared by the department

5.51 For its part, as outlined in the Chapter 4, the department shortlisted, for risk assessment, applications to the first round of the Strategic Projects component of the RLCIP based on the shortlisting criteria approved by Cabinet on 19 March 2009. As outlined at paragraph 5.10, the department recorded the results of its risk assessments in a summary brief for each of the 202 projects that had been the subject of a risk assessment, as well as preparing a further

¹⁹⁰ *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., p. 9.

risk assessment brief in respect to a four further projects where the Minister had asked for a project not shortlisted to be examined in terms of its risk (see Table 5.2).

5.52 The department's risk assessment briefs outlined the results of the assessment against each of the five risk categories and also identified any other factors the department wished to draw to the Minister's attention with respect to the project. Each such document identified whether, on the basis of its risk assessment, the department had concluded the project merited being considered for funding, was either ineligible/non-compliant or represented too high a risk for funding (even after the implementation of any identified risk treatment strategies). As noted, as a result of that process, the department identified 188 applications that it recommended could be funded subject to available funding (see paragraphs 3.36, 4.46, and 5.10–5.11).

Records of the application of the assessment criteria

5.53 As noted, on the afternoon of 21 April 2009, the Minister's Office informed the department of the criteria that had been applied in assessing which applications should be recommended to Cabinet for funding (see paragraph 5.13).¹⁹¹ This advice was provided one week after the department had provided the Minister with its risk assessment briefs. The department has confirmed to ANAO that it did not at any stage assess applications against the criteria advised to it by the Minister's Office. Accordingly, neither the earlier risk assessments nor any other records held by the department outlined how these criteria were applied to each application nor the results of the assessment for each application. The department advised ANAO that further inquiries in this regard would need to be made of the Minister's Office.

5.54 In this respect, in December 2009, the Minister's Office advised ANAO that:

- the only records pertaining to the assessment of applications are the five project spreadsheets submitted by the department under cover of

¹⁹¹ As discussed at paragraph 5.31 and Table 5.2, the Minister's Office also advised the department on 20 April and 21 April 2009 of a further five projects that were to be considered on the basis of community support.

its 14 April 2009 brief (see paragraph 5.10)—copies of which the department had already made available to ANAO; and

- the Minister's Office did not make any records outlining the extent to which each application had been assessed as meeting each criterion, the factors that informed this assessment, the overall assessment of each application or how the application was ranked in respect to other, competing applications.

5.55 The Minister's correspondence to the Cabinet Secretary of 22 April 2009, outlining the three assessment criteria that had been taken into account, documented the basis of the recommendations made to Cabinet about which applications merited being approved for funding (see paragraphs 5.14 and 5.15). However, just as specifying the assessment criteria in Program Guidelines does not obviate the need for a record as to how the criteria were applied to each competing application, the Minister's correspondence alone did not provide a sufficient record of the assessments that had been undertaken and, in particular, the basis for why it was decided that certain applications were more worthy of being approved for funding compared with other applications. The spreadsheets provided to the Minister by the department one week earlier also do not fill this gap as they do not include any rating of the various applications against the criteria documented by the Minister, or include an overall rating or ranking of each competing application.

5.56 While not affecting a Minister's right to decide on the allocation of grants, since 2007, the financial framework applying to grants decision-making has been progressively enhanced. In this respect, ANAO's audit of the Regional Partnerships Program highlighted that the provisions of the then-existing framework did not require approvers of proposals to spend public money, including Ministers, to record the basis on which they were satisfied that a proposal represents efficient and effective use of public money. In some circumstances this had left uncertainty as to the basis of decisions to provide a grant. In the interests of transparency and accountability, ANAO proposed that consideration be given to changes to the then-existing financial framework governing the expenditure of public money so as to require approvers of spending proposals to record the basis for their decision where this is not

apparent from the existing documentation.¹⁹² This recommendation was endorsed by both:

- the House Standing Committee, which recommended that changes to the financial framework be expedited so that the changes would be in place for the commencement of the new regional funding program;¹⁹³ and
- the Strategic Review of Grants, which commented that:

In view of the clear evidence of irregularities in past decision-making on discretionary grants, and given public concerns in this respect, the Review considers that there is a strong case to mandate a new requirement on the approvers of grant program spending under FMA Regulation 9 to document the *basis*, as well as the *terms*, of their approvals.¹⁹⁴

5.57 Against this background, since 14 December 2007, Ministers have been required to obtain agency advice on the merits of each proposed grant before making any decision about whether to approve the grant.¹⁹⁵ The approach adopted of the department not being involved in the assessment of applications against the assessment criteria also does not sit comfortably with this requirement.¹⁹⁶ Specifically, providing Ministers with advice on the merits of individual grants necessarily involves the department being involved in the application of assessment criteria (rather than, as in this case, performing a more limited role relating only to the assessment of risk), so as to provide advice as to whether each application should, or should not, be approved for

¹⁹² ANAO Audit Report No.14 2007–08, Volume 2—Main Report, op. cit., pp 82–94 and Recommendation No.2.

¹⁹³ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Proposals for the new Regional and Local Community Infrastructure Program*, Interim Report, November 2008, p. 59.

¹⁹⁴ *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., p. 9.

¹⁹⁵ Initially this requirement was introduced through Finance Minister's Instructions of 14 December 2007, was incorporated into one of the recommendations of the Strategic Review of Grants which was accepted by the Government in December 2008 and so was incorporated into the revised Instructions issued on 16 January 2009, and is now incorporated into the CGGs.

¹⁹⁶ In terms of this requirement, the Strategic Review commented that: 'This is a prudent control, designed to ensure that where Ministers elect to assume a decision-making role in relation to the award of grants, they are well-informed of the department's assessment of the merits of grant applications and suitably briefed on any other relevant considerations.' Source: *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., pp. 7 and 62.

funding. Further, in practice, advice on the merits of a grant application includes a clear agency recommendation to the Minister concerning whether or not funding should be approved under the program guidelines, having regard to the specified eligibility, assessment and any other relevant criteria.

Requirement for departments to advise on the merits of each proposed grant

5.58 The approach adopted of the department not being involved in the assessment of applications against the assessment criteria also does not sit comfortably with the enhanced grants administration framework. As noted at paragraph 5.45, since 14 December 2007 Ministers have been required to not approve grants without first receiving departmental or agency advice on the merits of the proposed grant.

5.59 Providing Ministers with advice on the merits of individual grants necessarily involves the department being involved in the application of assessment criteria (rather than, as in this case, performing a more limited role relating only to the assessment of risk), so as to provide advice as to whether each application should, or should not, be approved for funding. Further, in practice, advice on the merits of a grant application includes a clear agency recommendation to the Minister concerning whether or not funding should be approved under the program guidelines, having regard to the specified eligibility, assessment and any other relevant criteria.

5.60 In that context, the absence of a clear recommendation from agencies as to whether a proposed grant should be approved or not significantly diminishes both the extent to which the intent of the enhanced grants administration requirements is achieved, as well as the capacity for decision-makers to ensure they consistently and demonstrably comply with their obligations.

Preparation for the second funding round

5.61 In its June 2009 Final Report, the House Standing Committee recommended that the Government, in establishing a new regional infrastructure funding program, consider the need for clarity and simplicity

when structuring guidelines that address an application's eligibility and the manner in which it will be assessed and funds awarded.¹⁹⁷ Also in June 2009, the then Prime Minister announced¹⁹⁸ additional funding of \$120 million for the Strategic Projects component of the RLCIP, to be made available through a second competitive process.¹⁹⁹

5.62 On 9 October 2009, the Minister for Infrastructure, Transport, Regional Development and Local Government announced that:

- applications for round two of the Strategic Projects component were open and were due by 15 January 2010;
- the threshold for larger Strategic Projects had been reduced to applications seeking a minimum of \$1 million (compared to the previous minimum requirement of \$2 million), in order to provide local governments with greater flexibility;
- funds would be allocated on a competitive basis; and
- the new guidelines and other supporting information for round two were available from the department's web site.²⁰⁰

5.63 In this latter respect, in relation to the House Standing Committee's recommendation that clear and simple program guidelines be introduced that address an application's eligibility and the manner in which it will be assessed

¹⁹⁷ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Funding regional and local community infrastructure: Principles for the development of a regional and local community infrastructure funding program*, Final Report, June 2009, p. 18.

¹⁹⁸ The Honourable Kevin Rudd, Prime Minister, *Address to the Council of Local Government Conference*, Parliament House, Canberra, 25 June 2009.

¹⁹⁹ A third round of the RLCIP was announced in June 2010, involving an extra \$100 million in funding for the Council Allocation. No additional funding was announced for a third application round in respect to the Strategic Projects component. Source: Prime Minister and Minister for Infrastructure, *Investing in our partnership with local government*, Media Release, 18 June 2010.

²⁰⁰ The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Applications Open for \$220 million in Community Infrastructure*, Media Release, AA418/2009, 9 October 2009.

and funds awarded, the Government Response to the Committee's Interim and Final Reports²⁰¹ stated:

Agree. Publicly available guidelines, objectives of the program and a document which answers Frequently Asked Questions are available on the Department's website.

5.64 Whilst the first funding round had been conducted prior to the introduction of the CCGs, the second funding round was conducted under the auspices of the CCGs. As noted at paragraph 1.39, under the CCGs:²⁰²

- 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;
- 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 develop and submit applications that are not ineligible or that have little chance of success; and
- in the interests of transparency, accountability and equity, grant guidelines should document the circumstances in which the eligibility and assessment criteria may be waived or amended.²⁰³

5.65 Similarly, following publication of the CCGs, the Office of the Australian Government Solicitor updated its Legal Briefing titled *Grants and Funding Programs*,²⁰⁴ including advising that, to have a defensible basis for

²⁰¹ In its Final Report (at paragraph 2.10), the Committee stated it was: 'of the opinion that it would be in the Government's interest to consider in detail the recommendations of both Committee reports as it formulates a strategy to provide ongoing regional and local community infrastructure funding.' The Government response was titled as being in response to both the interim and final reports, but it considered that the 24 recommendations in the interim report had been 'consolidated' into the five recommendations in the final report such that the Government Response only directly responded to those five recommendations.

²⁰² Commonwealth Grant Guidelines, op. cit., pp. 22, 23, 28 and 29.

²⁰³ This is consistent with Recommendation No. 6 in the ANAO Regional Partnerships Program audit report.

²⁰⁴ Legal Briefing 83, 17 November 2009.

selecting grant recipients where an open selection process is used, the selection criteria should be:

- clearly defined;
- determined prior to the receipt of applications; and
- stated in the program guidelines.

5.66 As outlined in the Government response to the House Standing Committee's reports, similar to the first funding round, Program Guidelines and a Frequently Asked Questions document were published in respect of round two of the Strategic Projects component of the RLCIP. However, there was significant ambiguity in the Guidelines (which was not clarified by the Frequently Asked Questions document) as to how applications would be assessed, and by whom.

5.67 The Guidelines for round two included a section titled 'Assessment of applications'. This section advised that:

based on the submission of information provided, the department may undertake a risk analysis of the council's ability to undertake the proposed project.

5.68 Each version of the Program Guidelines for round one had advised applicants that a risk analysis 'will' be undertaken but, as it eventuated, this risk analysis was only undertaken in relation to those projects shortlisted by the department against unpublished shortlisting criteria.²⁰⁵ The change to the Guidelines for the second funding round meant that performing risk analysis on only those projects shortlisted would now be consistent with the information provided to applicants.

5.69 In December 2009, prior to applications for the second funding round closing, ANAO raised with the department²⁰⁶ that (similar to the Program Guidelines for the first funding round) the Guidelines section titled

²⁰⁵ This issue is explored in Chapter 4.

²⁰⁶ In the context of the department's obligations under paragraphs 3.24 and 3.25 of the CGGs to:

- advise Ministers on the requirements of the CGGs, and take appropriate and timely steps to do so where a Minister exercises the role of a financial approver in grants administration; and
- ensure that grant guidelines and related operational guidance are in accordance with the CGGs.

‘Assessment of applications’ did not outline what assessment criteria would be applied, nor whether the assessments would be undertaken by the department or the Minister’s Office. In announcing the second funding round in June 2009, the Minister had stated that the \$120 million in funding was intended to ‘support jobs during the global economic recession’.²⁰⁷ However, the only guidance to applicants on factors that would be taken into account in assessing and ranking competing eligible and compliant applications to the second funding round was included in a separate section titled ‘Outcomes’, which did not specifically refer to supporting jobs but, instead, advised applicants that:

...Projects must provide a clear, direct and measurable benefit to local communities. Applications will have a greater chance of success if they can quantify or otherwise demonstrate what the project will achieve, what the ongoing community benefits will be and how the project is sustainable.

5.70 In addition, this statement did not meet the requirement under the CCGs for assessment criteria to be set out in the published program guidelines. In this respect, as noted in ANAO’s performance audit of the Regional Partnerships Program, providing overly high levels of flexibility in the assessment and decision-making processes for competitive grants programs can create challenges in ensuring transparent, accountable and cost-effective administration and in demonstrating the equitable treatment of applicants.²⁰⁸ Similarly, the Strategic Review of Grants noted that:

Decision-making in grant programs has been a matter of strong public interest, widespread parliamentary and audit scrutiny, and significant political contention in recent times. The reasons for this lie largely in the ‘discretionary’ nature of many grant programs, the high levels of flexibility built into many application assessment procedures, and the consequent lack of transparency in Ministerial decision-making processes. In such circumstances, it is often difficult to demonstrate that decisions have been taken on the basis of merit, consistent with transparency and accountability principles, rather than for other reasons, including reasons of political self-interest. Perceptions that political factors have played a part in grant decision making processes have

²⁰⁷ The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government and the Hon Kevin Rudd MP, Prime Minister *Record Nation Building Investment in Local Communities*, Joint Media Release, AA315/2009 Joint, 25 June 2009.

²⁰⁸ ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, op. cit., p. 19.

been heightened by the findings of some recent ANAO performance audits, which have established a strong statistical relationship between the relevant Ministers' influence on grant funding decisions and the electorates to which grant funding has been directed.²⁰⁹

5.71 The absence of predetermined assessment criteria for competitive application-based grants programs brings with it a risk that, where the round is over-subscribed with eligible and compliant applications, additional (unpublished) threshold criteria will be applied to reduce the call on program funds. In this context, it is important for agencies and decision-makers to understand the difference between:

- assessment criteria, which are focused on developing a ranked list of competing eligible and compliant applications with the available program funding then allocated to those applications ranked as most likely to maximise the achievement of program objectives; and
- threshold criteria, which are used to eliminate applications from further consideration. There are significant risks to the probity and integrity of competitive application-based grants programs in situations where criteria that will be used to exclude applications from possible merit ranking are not determined prior to the receipt of applications and published in the program guidelines.

5.72 Not developing and publishing the assessment criteria in advance of seeking applications also brings with it the risk that criteria will be developed and applied iteratively during the assessment of applications, with consideration given to developing criteria that enable certain preferred applications to be viewed more favourably. In this respect, the Strategic Review of Grants noted that:

It is important also that administering departments avoid any communication with a Minister or Minister's office that may jeopardise, or appear to prejudice, an objective, merit-based assessment of grant applications. This would generally preclude discussions with Minister's offices on the merits of

²⁰⁹ *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., p. 62.

individual applications before appraisal processes are completed and formal advice presented to the Minister.²¹⁰

5.73 Not developing assessment criteria in advance of seeking applications and advising these criteria to potential applicants (through the program guidelines) also leaves open the risk that departments will be able to do no more than provide decision-makers with a shortlist of eligible compliant applications, with decision-makers then left in the difficult position of having to make final funding decisions without a transparent and defensible basis for assessing the relative merits of each competing shortlisted application.

5.74 In this respect, under the enhanced grants administration framework now encapsulated by the CCGs, departments are responsible for providing advice to decision-makers on the relative merits of proposed grants. As a result, decision-makers (including Ministers) should not be left in a position of having to consider and compare the relative strengths and weaknesses of each competing application without the department having clearly indicated:

- those applications it recommends for funding (up to the limit of the available program funding); and
- those applications that it considers should not be funded (either because insufficient program funding is available to fund lower-ranked applications or because the application has failed to satisfactorily meet one or more of the assessment criteria, or has not met one or more of the threshold criteria).

5.75 By way of comparison, in addition to outlining the organisations eligible to apply and examples of the types of projects that can be funded, the published guidelines for Round 2 of the Local Jobs Stream of the Jobs Fund (also conducted after the CCGs were introduced) included clear guidance on the assessment criteria that would be applied, and emphasised that projects that did not meet all five listed criteria would not be considered for funding (see Figure 5.1).

²¹⁰ *Strategic Review of the Administration of Australian Government Grant Programs*, op. cit., p. 63

Figure 5.1

Jobs Fund Guidelines—Local Jobs Stream, Round 2: Published assessment criteria

2.2 Assessment Criteria

Criteria which must be met

In order to be considered for funding under the Local Jobs stream, projects **must meet all five** Criteria:

1. Have a positive impact on the environment
2. Create and retain jobs and develop skills
3. Assist disadvantaged groups/regions
4. Have strong community linkages
5. Be sustainable and viable

Projects which do not meet all five Criteria will not be considered.

All projects must also demonstrate that the activities to be funded are clearly additional to those that would have occurred in the absence of funding under the Jobs Fund.

Further detail on the specific issues addressed under each assessment criteria is included below. Organisations must address the assessment criteria detailed below in Part C of the Local Jobs Proposal for Funding form.

Source: ANAO analysis.

Recommendation No.2

5.76 ANAO *recommends* that, in the design of future grants programs, the Department of Infrastructure, Transport, Regional Development and Local Government develop for Ministerial consideration clearly defined selection criteria that will be published in the program guidelines and applied in the assessment of grant applications.

DITRD LG response

5.77 DITRD LG agreed to the recommendation.

6. Distribution and announcement of funding

Consistent with the objectives for this audit and practices adopted for many years in respect to audits of Commonwealth discretionary grants programs, this chapter examines the distribution of funding under round one of the Strategic Projects component of the RLCIP in geographic and electorate terms. It also analyses the processes employed to announce successful applications.

Introduction

6.1 As outlined at paragraph 5.10, on 14 April 2009 the department advised the Minister for Infrastructure, Transport, Regional Development and Local Government on the results of the risk assessments undertaken in respect to the 202 projects shortlisted after applying the criteria approved by Cabinet on 19 March 2009. To inform the Minister's consideration of the department's advice, a detailed briefing package was provided, including five project lists in the form of excel spreadsheets. Both hard copy and electronic versions of the spreadsheets were provided to the Minister's Office. Electronic copies of the individual project risk assessments were provided to the Minister's Office by the department on 15 April 2009.

6.2 On the afternoon of 21 April 2009, one week after the department provided the Minister with the results of its risk assessments and copies of the individual assessments, the Minister's Office emailed²¹¹ the department and advised that:

- the Minister would be recommending a shortlist of projects totalling approximately \$550 million for Cabinet approval;
- the list would be provided to the department 'as quickly as possible'; and
- the list had been:
derived taking into account one or more of the following factors:

²¹¹ This email was used to prepare a letter from the Minister to the Cabinet Secretary dated 22 April 2009.

- Geographic distribution of projects;
- Likely economic stimulus and community impact, drawing on population sizes, capacity within local government authorities, percentage of partnership funding, and nature of projects; and
- Whether alternative funding sources are available or have been provided.

6.3 Some two hours later the Minister's Office provided the department with a list of 137 projects with an aggregate program cost of \$549.72 million. This list had been extracted from a spreadsheet that, in turn, was based on the one provided by the department on 14 April 2009. Two additional worksheets had been created after the spreadsheet had been completed by the department, as follows:

- a new worksheet titled 'Minister's Recommendations', which comprised the 137 projects that the department had been advised the Minister intended to recommend for funding approval;²¹² and
- a new worksheet titled 'Summary' (see Figure 6.1). This worksheet summarised the distribution of funding on a political party basis as well as in geographic terms.

²¹² In addition to the data originally provided by the department, two new columns were added to the worksheet to identify the electorate in which the project was located, and the political party that held that electorate. The individual project risk assessments provided to the Minister's Office by the department on 15 April 2009 had identified the electorate in which each shortlisted project was located.

Figure 6.1**Distribution analysis undertaken to inform funding decisions****SUMMARY**

	Australian Government Funding	Total Funding	Number of Projects	% BY PARTY			
ALP	\$ 303,670,411	\$ 769,461,361	81	55%			
NP	\$ 25,415,675	\$ 64,252,105	8	5%			
LP	\$ 186,365,105	\$ 488,738,702	42	34%			
IND	\$ 34,273,520	\$ 44,721,205	6	6%			
TOTAL	\$ 549,724,711	\$ 1,367,173,373	137				
	Australian Government Funding	Total Funding	Number of Projects	% BY STATE	POPEN ('000)	% OF POPEN	% OF \$550M BY POPEN
NSW	\$ 136,319,101	\$ 275,140,925	42	25%	7017.1	33%	\$ 179,153,070
NT	\$ 8,600,000	\$ 19,409,651	3	2%	221.1	1%	\$ 5,644,888
QLD	\$ 122,312,496	\$ 341,086,314	18	22%	4320.1	20%	\$ 110,296,159
SA	\$ 43,530,489	\$ 83,472,718	13	8%	1607.7	7%	\$ 41,046,072
VIC	\$ 154,486,409	\$ 461,560,393	35	28%	5340.3	25%	\$ 136,342,811
TAS	\$ 20,112,230	\$ 43,226,730	6	4%	498.9	2%	\$ 12,737,380
WA	\$ 64,363,986	\$ 143,276,642	20	12%	2188.5	10%	\$ 55,874,434
TOTAL	\$ 549,724,711	\$ 1,367,173,373	137		21542.5		

Source: ANAO analysis of departmental records.

6.4 Attached to the Minister's letter of 22 April 2009 to Cabinet recommending those projects that should be approved for funding (see paragraph 5.14) was a list of 136 projects with a total funding contribution of \$539.67 million. This list was identical in most respects to that provided to the department one day earlier, except that:

- three projects²¹³ were removed from the list, with a value of \$13.15 million;

²¹³ One was located in South Australia (in the Liberal Party held electorate of Grey), another was located in Western Australia (in the Liberal Party held electorate of Curtin) and the third in Victoria (in the ALP held electorate of Bendigo). As outlined at paragraph 5.39, this last project was later re-included in the list of approved projects as it had been 'inadvertently omitted'.

- the amount of funding to be provided for the Gold Coast Stadium Redevelopment project was reduced by \$2.0 million from \$38.0 million to \$36.0 million; and
- two projects were added to the list of recommended projects.²¹⁴

6.5 The Minister also recommended that Cabinet consider providing \$10 million in respect to the application from Brisbane City Council for funding towards the renovation of Brisbane City Hall, which also had not been included in the list provided to the department on 21 April 2009. This brought the total cost of the 137 recommended projects to \$549.67 million.

6.6 Against this background, ANAO analysis of the distribution and announcement of approved funding is based on the final list of approved projects.

Distribution of funding

6.7 A total of 484 applications were received and, applying the shortlisting criteria set by Cabinet on 19 March 2009 (see paragraph 4.6), 202 projects were shortlisted for the conduct of risk assessments by the department. There was no evidence that the shortlisting criteria were intended to benefit electorates held by one party compared to another. Nevertheless, the shortlisting criteria resulted in a significant proportion (72 per cent) of applications in respect to projects located in a Coalition held electorate not being shortlisted but the majority (52 per cent) of applications in respect to projects located in an ALP held electorate met the shortlisting criteria. Excluding those projects that were not shortlisted and did not pass the department's risk assessment:

- 79 of 102 shortlisted projects located in an ALP held electorate were approved for funding (an approval rate of 78 per cent);
- 47 of 75 shortlisted projects located in a Coalition held electorate were approved for funding (an approval rate of 63 per cent); and

²¹⁴ One was located in New South Wales (in the ALP held electorate of Eden Monaro) with the other located in Victoria (in the ALP held electorate of Hotham).

- five of 11 shortlisted projects located in an electorate held by an Independent member were approved for funding (an approval rate of 46 per cent).

6.8 However, focusing such analysis on shortlisted projects would overlook that four of the applications approved for funding had not been shortlisted. In respect to the broader population of all 484 applications received in response to the re-opened application round, as illustrated by Table 6.1:

- Victorian councils were more successful in being approved for Program funding than were councils in other States, with Victorian projects representing a larger proportion of funded projects relative to applications, both in respect to the number of projects and their value;
- councils in Western Australia, South Australia and Tasmania were less successful in having their projects approved for funding when considered against the proportion of applications that were submitted by councils in each of these States (both with respect to the number of projects, and the value of funding approved);
- in terms of the number of projects, projects approved for funding in New South Wales represented a similar percentage of total projects approved as they had in relation to total applications submitted, but the overall amount of approved funding was a lower percentage of the total than had been the case in relation to funding sought by applications submitted; and
- while the projects approved in Queensland represented a percentage of the total that was similar to that represented by applications submitted by councils in that State, a higher percentage of Program funding was directed to Queensland councils than those councils had sought as a proportion of total funding applied for (for example, the single largest grant was to a project located in Queensland).

Table 6.1**Distribution of funding by State: applications and approved projects**

State/Territory	Applications				Projects Approved			
	#	%	\$m	%	#	%	\$m	%
New South Wales	151	31.2%	625.9	30.5%	43	31.4%	138.5	25.2%
Western Australia	84	17.4%	292.2	14.3%	19	13.9%	58.6	10.7%
Victoria	81	16.7%	348.3	17.0%	36	26.3%	157.4	28.6%
Queensland	64	13.2%	367.5	17.9%	19	13.9%	130.3	23.7%
South Australia	62	12.8%	242.8	11.8%	12	8.8%	41.1	7.5%
Tasmania	26	5.4%	96.3	4.7%	5	3.6%	15.0	2.7%
Northern Territory	15	3.1%	67.9	3.3%	3	2.2%	8.6	1.6%
Australian Capital Territory	1	0.2%	8.4	0.4%	Nil	N/A	Nil	N/A
Total	484	100%	2 049.3	100%	137	100%	549.6	100%

Source: ANAO analysis of DITRD LG data.

Distribution of funding by electorate

6.9 As illustrated by Figure 6.1, in considering which projects should be recommended and approved for funding, analysis was undertaken of the geographic and political party distribution of funding. In addition to providing what was considered to be a reasonable geographical spread of approved funding, the proportion of funding awarded was consistent with the proportion of seats held in the House of Representatives (see Table 6.2). Specifically:

- the ALP held 55 per cent of electorates, with 57 per cent of funding being awarded to projects located in an ALP held electorate;
- the Coalition parties held 43 per cent of electorates, with 37 per cent of funding being awarded to projects located in an electorate held by the Coalition. In addition, three of the four largest grants were made to projects located in Liberal Party held electorates (the third largest grant was made in respect to a project located in an Independent held electorate); and
- Independent members held 2 per cent of electorates, with 6 per cent of funding being awarded to projects located in an electorate held by an Independent member.

Table 6.2**Distribution of approved funding by political party and electorate status**

Party and electorate status	Electoralates held		Funding approved	
	#	% of total	\$	% of total
ALP Safe	37	24.6%	132 461 984	24.2%
ALP Fairly Safe	21	14.0%	104 813 460	19.1%
ALP Marginal	25	16.7%	74 024 967	13.5%
Total ALP	83	55.3%	311 751 411	56.7%
Coalition Safe	13	8.7%	68 266 050	12.4%
Coalition Fairly Safe	19	12.7%	45 264 751	8.2%
Coalition Marginal	32	21.3%	89 998 866	16.4%
Total Coalition	64	42.7%	203 529 667	47.0%
Independent (all Safe)	3	2.0%	34 273 520	6.2%
Total all Parties	150	100.0%	549 554 598	100.0%

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

6.10 The published Program Guidelines outlined that all councils were eligible to apply for funding towards the cost of a large strategic project and that funding would be allocated on a nationally competitive basis. In this light, whilst the total amount of funding provided a reasonable geographic spread and was largely consistent with the proportion of electoralates held by the major parties and Independent members, in terms of the number of applications the distribution of approved funding by electorate favoured seats held by the ALP and those held by Independent Members of Parliament, at the expense of those held by the Coalition parties (see Table 6.3). More specifically:

- projects in electoralates held by the ALP represented nearly 60 per cent of all successful applications, with the ALP holding 55 per cent of seats at the time of the funding round. Whereas funding was awarded to ALP held seats categorised by the Australian Electoral Commission (AEC)²¹⁵

²¹⁵ The AEC categorises the status of a House of Representatives seat based upon the results at the most recent Federal election. Where a winning party receives less than 56 per cent of the vote, the seat is classified as 'marginal', 56–60 per cent is classified as 'fairly safe' and more than 60 per cent is considered 'safe' (Source: <<http://results.aec.gov.au/13745/Website/HouseDivisionClassifications-13745-NAT.htm>> [accessed 29 April 2010]).

as 'safe' in a similar proportion to the number of such seats held, 'fairly safe' and 'marginal' ALP held seats were over-represented in terms of the number of projects approved and the amount of funding that was awarded;

- albeit with small numbers, projects located in Independent held seats were also over-represented: at the time of the funding round, three electorates (2 per cent of electorates) were held by an Independent, whereas six projects were funded in Independent held electorates (4 per cent of the total number of projects funded); and
- projects in electorates held by one of the Coalition parties were, as a consequence, under-represented in terms of the number of grants approved (at the time of the funding round, the Coalition parties held nearly 43 per cent of seats, but successful applications in electorates held by the Coalition represented less than 36 per cent of all approved projects). The most significant difference related to Coalition seats categorised by the AEC as 'marginal', with just over 21 per cent of all electorates being a marginal Coalition held seat, but fewer than 17 per cent of approved applications being located in a marginal Coalition held seat.

6.11 In July 2010 the Minister indicated to ANAO that he had a different perspective in respect to the distribution of funding. In particular, the Minister informed ANAO that he considered that the distribution of applications was skewed as it reflected wide variations in council numbers and sizes across the country. By way of comparison, the Minister viewed the final allocation of funding by State and Territory as being broadly representative of the populations of those jurisdictions.

Table 6.3

Application and approval rates by political party and electorate status

Party and electorate status	Electrates held		Applications received		Applications funded		Approval rate
	No.	% of total	No.	% of total	No.	% of total	
ALP Safe	37	24.6%	68	14.0%	33	24.1%	48.5%
ALP Fairly Safe	21	14.0%	56	11.6%	23	16.8%	41.1%
ALP Marginal	25	16.7%	71	14.7%	26	19.0%	36.6%
Total ALP	83	55.3%	195	40.3%	82	59.9%	42.1%
Coalition Safe	13	8.7%	103	21.3%	11	8.0%	10.7%
Coalition Fairly Safe	19	12.7%	55	11.4%	15	10.9%	27.3%
Coalition Marginal	32	21.3%	108	22.3%	23	16.8%	21.3%
Total Coalition	64	42.7%	266	55.0%	49	35.7%	18.4%
Independent (all Safe)	3	2.0%	23	4.7%	6	4.4%	26.1%
Total all parties	150	100.0%	484	100.0%	137	100.0%	28.3%

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

Application and approval rates

6.12 While the distribution of approved funding across electorates provides beneficial analysis to inform decision-making, an important measure of equity of access in the context of a grant program conducted through competitive application rounds is the extent to which the distribution of funding correlates with the pattern of applications received.

Application success rates by party

6.13 As illustrated by Table 6.3, applications that involved a project in an ALP held electorate were significantly more successful in being awarded funding than those affecting a Coalition held electorate or an electorate held by an Independent Member. Specifically:

- whilst the majority of applications received related to projects located in a Coalition held electorate (55 per cent of all applications), the significant majority (some 82 per cent) of these were not approved for funding. As a result, projects in a Coalition held electorate comprised 36 per cent of approved applications, with an approval rate of 18.4 per cent; whereas
- whilst only two out of every five applications (40.3 per cent of all applications) related to a project in an ALP held electorate, just under 60 per cent of approved projects were in an ALP held electorate. The approval rate for these applications was 42.1 per cent, which was more than twice that of projects located in a Coalition held electorate.

6.14 In June 2010, the department commented to ANAO that:

We note that there are a number of factors that may have contributed to this, for example capacity of smaller councils in rural areas vis a vis the aim of the program to deliver 'strategic' projects. We suggest that the ANAO's analysis take into account some more detailed analysis on the type of councils within electorates, which would have impacted on the selection of projects.

6.15 In this respect, it is important to recognise that the published Program Guidelines outlined that all councils were eligible to apply for funding towards the cost of a large strategic project and that funding would be allocated on a

nationally competitive basis. No indication was given to smaller councils²¹⁶ in rural areas that they would be viewed as being less likely to deliver the types of projects that would meet the aims of the Strategic Projects component. Further, the published Program Guidelines had indicated that risks associated with the delivery of projects would be addressed through risk assessments undertaken by the department and did not contemplate projects from smaller councils being excluded from funding consideration on the basis of the reduced capacity of these types of councils to deliver their projects. Against this background, ANAO analysis of the distribution of funding when considered in terms of the types of councils²¹⁷ showed that:

- urban councils submitted slightly more applications (258) than rural councils (226), and were significantly more successful at being awarded funding (an approval rate of 46.5 per cent compared with 7.5 per cent for rural councils). In respect to both urban and rural councils, projects located in an ALP held seat were significantly more successful at being awarded funding than those located in a Coalition held seat;²¹⁸
- councils classified as remote, regional or agricultural submitted more applications²¹⁹ than those classified as capital city, developed, fringe or significant growth but most of the approved projects were located in a council classified as a capital city, developed, fringe or significant

²¹⁶ As outlined at paragraph 5.29, in terms of the unpublished assessment criteria that were documented on 21 April 2009, the population within the relevant council area was relied upon as an indicator as to the capacity of council's to deliver projects (larger councils were considered to be more capable of delivering timely projects).

²¹⁷ ANAO analysis used the classification of councils under the Australian Classification of Local Governments (ACLG) as had been used by the department for the allocation of funding under the Council Allocation component of the RLCIP. Further details on the ACLG is provided in ANAO Audit Report No. 31 2009–10, *Management of the AusLink Roads to Recovery Program*, Canberra, 22 April 2010.

²¹⁸ The approval rate for rural councils was 12.1 per cent for those with a project located in an ALP held seat, more than twice the rate for those with a project located in a Coalition held seat (an approval rate of 5.3 per cent). The approval rate for urban councils was 53.3 per cent for those with a project located in an ALP held seat compared with 35.7 per cent for those with a project located in a Coalition held seat.

²¹⁹ Councils classified as remote submitted 45 applications, those classified as regional submitted 111 applications and those classified as agricultural submitted 173 applications, collectively comprising 68 per cent of all applications. By way of comparison, councils classified as a capital city submitted 8 applications, those classified as developed submitted 88 applications, those classified as fringe submitted 45 applications and those classified as significant growth submitted 8 applications. The remaining six applications were not submitted by a council.

growth. In all respects, projects located in an ALP held seat were more successful at being awarded funding than those located in a Coalition held seat;²²⁰ and

- in relation to the size of the council, overall approval rates were similar (between 20 per cent and 25 per cent) for most types of councils (small, medium, large and significant growth) but higher for capital city councils (37.5 per cent) and very large councils (51.4 per cent). Again, irrespective of the size of the council, applications for projects located in an ALP held seat were significantly more successful at being approved for funding (ranging from a 94 per cent higher approval rate for very large councils to a 600 per cent higher approval rate for significant growth councils).

Application success rates by electorate participation

6.16 The significant difference in application success rates is reinforced when considered on an electorate participation basis. In this respect, at the time funding decisions were made, the ALP held 83 seats and applications were received for one or more projects in 73 of these electorates (an 88 per cent Program participation rate). Of those 73 electorates, 62 (85 per cent) had at least one approved project located within them.

6.17 At least one application was received for 56 of the 64 seats held by the Coalition, resulting in an 88 per cent Program participation rate, the same as that for ALP held seats. However, applications for projects located in a Coalition held electorate were significantly less likely to be approved for funding. In this respect:

- of the 56 Coalition held electorates in respect to which at least one application had been made, 42 were successful in having at least one

²²⁰ The closest approval rate was in respect to councils classified as fringe where 60 per cent of applications for a project located in a Coalition held seat were approved and 66.7 per cent of applications for a project located in an ALP held seat were approved (a rate 11 per cent higher than that of projects located in a Coalition held seat). By way of comparison, the approval rate for projects located in an ALP held seat was 62 per cent higher for councils classified as developed, 68 per cent higher for councils classified as regional, 192 per cent higher for those classified as agricultural and 600 per cent higher for those classified as significant growth (noting that, in respect to councils classified as agricultural and significant growth, there were very few applications approved for funding—14 and two respectively).

project awarded funding (75 per cent, well below the 85 per cent for ALP held seats); and

- councils in the 14 Coalition held electorates for which applications were made but in which no projects were approved for funding²²¹ had submitted a total of 50 applications (10 per cent of all applications).²²² For example, 13 councils in the rural electorate of Calare submitted a total of 14 applications of which none were awarded funding. Calare is a 'safe' seat held by The Nationals and, as outlined in Table 6.3, Coalition held safe seats were significantly less likely (at a success rate of 10.7 per cent) to be approved for funding than any other category of electorate.

6.18 The higher success rate for projects in ALP held electorates was also reflected in those electorates being more likely to have multiple projects approved. Specifically, there were 83 electorates in respect to which two or more funding applications had been made, most of which were divided broadly equally between the ALP (42 electorates, 51 per cent) and the Coalition (38 electorates, 46 per cent).²²³ However, of the 28 electorates in which two or more projects were approved for funding in the first round of the Strategic Projects component, the significant majority (19 or 68 per cent) were held by the ALP.

6.19 The result of the above circumstances was that the economic stimulus funding available under the Strategic Projects component of the RLCIP was:

- distributed in a way that meant that projects located in electorates held by the ALP and Independent Members were more successful at being awarded funding than those located in electorates held by the Coalition parties when considered in terms of political party representation in the House of Representatives as well as the types of councils within electorates; and

²²¹ Of the ALP held electorates where applications had been made, 11 had no projects approved for funding.

²²² By way of comparison, the 11 ALP held electorates in respect to which applications had been made but no projects approved involved a total of 26 projects (5 per cent of total applications).

²²³ The remaining three electorates in respect of which two or more applications had been lodged were each held by an Independent Member.

- directed towards ALP held electorates at a rate that was disproportionate to the pattern of applications.

6.20 The result, in this latter respect, was that that 57 per cent of the \$550 million in available funding was awarded to projects that were located in electorates held by the ALP, compared to applications for projects located in ALP held electorates having represented 47 per cent of the total funding sought in the application round. By way of comparison, applications for projects in electorates held by the Coalition had represented 48 per cent of the total funding sought in the application round, but only 37 per cent of the available funding was awarded to projects located in Coalition held seats.²²⁴

Application success rates by capacity to stimulate economy

6.21 The awarding of funding to projects also disproportionately favoured ALP held seats when considered in terms of the extent to which the various applications indicated they would be able to undertake construction work in the desired economic stimulus timeframe of 18 months.²²⁵

6.22 Specifically, of the 346 projects that the application had indicated would be capable of being undertaken within the desired economic stimulus timeframe, 145 (42 per cent) were located in ALP held electorates. Of those, 60 were approved for funding, representing a success rate of 41 per cent. By way of comparison, of the 346 projects the application had indicated would be capable of being undertaken within the desired economic stimulus timeframe:

- 186 (54 per cent) were located in Coalition held electorates. Of those, 28 were approved for funding, representing a success rate of 15 per cent; and
- 15 (4 per cent) were located in electorates held by Independent Members. Of those, four were approved, representing a success rate of 27 per cent.

²²⁴ Funding for projects located in Independent held seats represented 4 per cent of the total applied for and 6 per cent of the total funding awarded.

²²⁵ See further at paragraph 5.30 and Table 5.1.

Announcement of funded projects

6.23 It is accepted that governments may choose the timing of announcements to suit their purposes having regard to other priorities.²²⁶ Nevertheless, from a program administration perspective, and as a matter of good practice, it is preferable for all decisions on approved or unsuccessful projects to be announced together, or within a relatively short period of time.²²⁷ This approach has the advantage of avoiding any perception that the timing of the announcements is being used for party-political purposes. It also enables proponents to know the outcome of their proposals as soon as possible so they can begin preparing to implement their project or pursue alternative sources of funding (where Commonwealth funding has not been approved). In the context of economic stimulus, the prompt announcement²²⁸ of projects would have assisted to provide confidence and improved certainty in local government and the construction sectors.

6.24 In respect to the announcement of funded projects under the previous Regional Partnerships Program, the department agreed to an ANAO recommendation²²⁹ that it:

- examine, and advise the Ministerial decision-makers on, options that would promote timely announcement of successful applications for funding; and
- amend its administrative procedures for preparing draft announcement material for approved grants to make appropriate reference to any funding conditions.

6.25 On 9 April 2009, draft media releases announcing Strategic Projects funding were provided by the department to the Minister's Office (see further at paragraph 5.19). Draft media releases had been prepared for 200 of the

²²⁶ ANAO, *Better Practice Guide—Administration of Grants*, Canberra, May 2002, p. 47.

²²⁷ ANAO Audit Report No. 14 2007–08, Volume 1—Summary and Recommendations, op. cit., p. 54.

²²⁸ In June 2010 (see paragraph 7.23), the department informed ANAO that the prompt approval of projects facilitated confidence and improved certainty in the local government and construction sectors.

²²⁹ ANAO Audit Report No. 14 2007–08, Volume 2—Main Report, op. cit., Recommendation No. 4, p. 134.

202 projects that the department had assessed as meeting the 19 March 2009 shortlisting criteria.²³⁰

6.26 Consistent with the ANAO recommendation in respect to the Regional Partnerships Program, the draft media releases prepared by the department made provision to refer to any funding conditions that needed to be satisfied in order for the approved funding to be paid. However, as it eventuated, only eight of the 137 official announcements made in relation to approved funding under the first round of the Strategic Projects component of the RLCIP made reference to any funding conditions, despite there being at least one condition attached to the approval of each of the approved projects.

6.27 In respect to the first part of the earlier ANAO recommendation, there was no record of the department advising its Minister on options that would promote timely announcement of successful applications for funding to the Strategic Projects component of the RLCIP.

Process by which advice was to be provided to project proponents

6.28 The (April 2009) version of the department's procedures manual in place at the time funding decisions were made under the first round of the Strategic Projects component required that the package for each 'recommended' project include the department's risk analysis; advice on any additional sensitivities the funding approver(s) needed to be aware of in making a decision on funding approval; a draft notification letter to the

²³⁰ A draft media release was not prepared and provided to the Minister's Office for the following two applications:

- Murrindindi Shire Council in Victoria's application for \$2 million towards estimated total project costs of \$2.9 million for the Yea Saleyards Upgrade; and
- Wellington Shire Council in Victoria's application for \$4.45 million towards the estimated \$10.9 million cost of its Gippsland Regional Sports Complex—Sale project. Instead, a draft media release was prepared in relation to Wellington Council in NSW's application for \$2.1 million towards the estimated \$2.2 million cost of the Wellington Central Business District—Streetscape Upgrade project. The application submitted by Wellington Council in NSW had not been shortlisted.

proponent; and a draft notification letter to the local Member of Parliament or the duty Senator.²³¹

6.29 The procedures manual also included detailed guidance on the preparation of draft letters to both successful and unsuccessful proponents. Specifically:

- letters for project proposals approved for funding were to be signed by the Minister, but the department was to sign the letters in relation to project proposals not approved for funding;
- the letter to successful proponents was to advise that funding had been approved; state the amount of funding that had been approved; identify any changes to the project activities that would be funded (compared to those applied for); identify any conditions attached to the funding; and require that the proponent confirm its intention to accept the funding offer within two weeks; and
- the letter to unsuccessful proponents was to advise the reasons for funding not being approved and provide contact details for further information.

6.30 Under the predecessor Regional Partnerships Program, the announcement of funding approvals normally occurred shortly after the decision had been taken.²³² In most cases, the approach adopted was that the letters from the then Minister formally advising the applicant and, where relevant, non-Coalition local Member of the approval were withheld until the public announcement had been made. Further, it had generally been the case under that program that the department was not to contact a successful applicant to begin preparation of a Funding Agreement until the grant approval had been publicly announced. Where delays occurred in the announcement of funding for certain projects, this process contributed to

²³¹ Similar to the approach that was adopted for the previous Regional Partnerships Program, it was proposed that the relevant Government Member or, if the electorate was not held by the Government, duty Senator would be advised of funding being approved for a project in advance of any public announcement. For projects where the electorate was held by the Coalition or an Independent Member, a separate letter was proposed to be sent to the relevant Member after funding had been announced.

²³² However, the audit report also observed a number of departures from that practice, particularly in relation to projects approved for funding in the lead-up to the calling of the 2004 Federal election. See ANAO Audit Report No. 14 2007–08, Volume 2—Main Report, op. cit., pp. 124–128.

protracted delays in Funding Agreements being signed and project work commencing.

6.31 Early advice to proponents of applications approved for funding was particularly important in the context of the Strategic Projects component of the RLCIP, given the introduction of a program to replace the Regional Partnerships Program was accelerated, and later supplemented, in order to provide economic stimulus, including the focus on job creation. In this respect, announcing successful projects as soon as practicable after round one funding had been approved on 22 April 2009 would have been consistent with steps taken to expedite the application assessment and approval processes including, for example:

- reducing the period allowed for the department to undertake risk assessments (see further at paragraph 4.8); and
- the Minister for Infrastructure, Transport, Regional Development and Local Government emphasising that, for the Strategic Projects component to achieve its desired results, the Government needed to move swiftly to finalise which applications were to be approved for funding (see further at paragraph 5.12).

6.32 In terms of the timing of advice to project proponents, in February 2009 the department had prepared proforma letters in respect to both successful and unsuccessful applications. The draft proforma letter to successful applicants emphasised that:

- before any funding could be paid, a Funding Agreement would need to be entered into, and that this must occur within four weeks of the applicant being notified that funding had been approved²³³;
- no financial commitments should be entered into based on receiving funding from the Australian Government until the Funding Agreement was fully executed; and
- the outcome of the application should be kept confidential until a public announcement by an Australian Government representative had been made.

²³³ This advice was similar to statements made in the Program Guidelines.

6.33 Whilst letters were not sent by the department, councils were informed that they had been successful prior to public announcements being made. In relation to advice provided to successful and unsuccessful applicants, in June 2010 the department advised ANAO that:

Successful applicants were to be advised as part of a media announcement for each approved project.

The department wrote an email to successful applicants congratulating them and advising them of the process for negotiating funding agreements. These emails were sent during the week commencing the 25th of May 2009.

The letters to unsuccessful applicants were sent to councils on 12th of May 2009.

6.34 The emails to successful applicants also sought additional information on the relevant project so as to enable a Funding Agreement to be drafted.²³⁴ A total of 136 Funding Agreements were signed between 5 June 2009 and 26 June 2009.²³⁵

Timing of announcements

6.35 In addition to the distribution of funding, an important consideration in respect to administering grant programs is the approach taken to the public announcement of funding.

6.36 On 22 April 2009, Cabinet approved 137 projects for Program funding. Over the course of the month to 21 May 2009, funding was officially announced (usually via a Media Release) for all 137 projects. As illustrated by Figure 6.2, funding announcements for projects in an electorate held by the ALP were made, on average, earlier in this period than those in a Coalition held electorate. By 7 May 2009, funding had been announced in respect to 115 projects (84 per cent), but this predominantly comprised projects located in

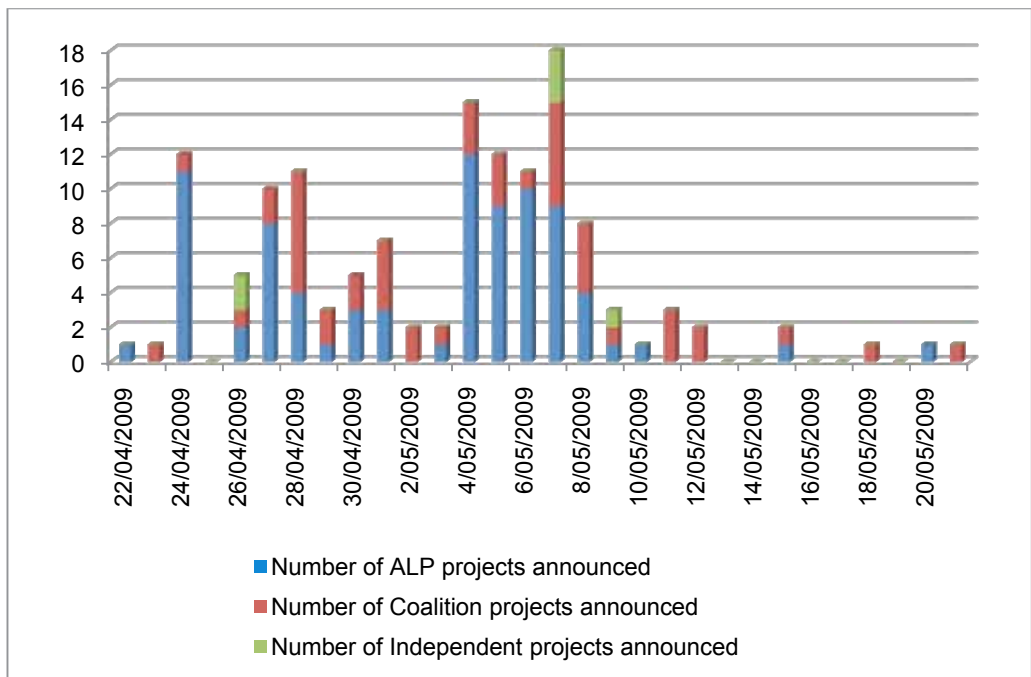
²³⁴ Specifically, the department's email stated: 'To enable this department to draft a Funding Agreement for your project, we need to ensure that we have sufficient information about your proposal. This information was requested as part of the initial application, however in the majority of cases, insufficient information was provided to the department to enable us to draft a Funding Agreement that is of a standard required by the Commonwealth.'

²³⁵ The remaining Funding Agreement was signed on 24 July 2009—the delay being caused by changes required to the standard Program Funding Agreement to enable Council to transfer ownership of the Gold Coast Stadium to Stadiums Queensland.

an electorate held by the ALP.²³⁶ As noted, on 8 May 2009, the department commenced sending letters to all successful applicants advising them that funding had been approved for their project.

Figure 6.2

Timeliness of official announcements of Program funding for successful applications



Source: ANAO analysis.

Role of Local Members of Parliament

6.37 ANAO’s audit of the previous Government’s Regional Partnerships Program observed that the approach taken to the public announcement of approved funding differed depending on the political affiliation of the relevant Member of the House of Representatives.²³⁷ In particular, the approach

²³⁶ By this date, 90 per cent of approved projects located in an ALP held seat had been announced, compared to only 69 per cent of those in a Coalition held seat. Five of the six projects held by an Independent Member had been announced for funding by 7 May 2009.

²³⁷ ANAO Audit Report No. 14 2007–08, Volume 2—Main Report, op. cit., p. 122.

normally adopted under that program was that, where the local Federal Member was from a Coalition party, he or she would be advised of the grant approval by the approving Minister²³⁸ and invited to make a public announcement of the funding, for which the Member was provided with a draft Media Release. Where the local Member was not from a Coalition party, a duty Coalition Senator from the relevant State was invited to make the public announcement.

6.38 A similar approach was observed in respect to the first round of the Strategic Projects component of the RLCIP. More specifically, there were 62 (47 per cent) where the official announcement included reference to the relevant Member of the House of Representatives. In 61 of these instances (95 per cent), the electorate was held by the ALP. This meant that the relevant Member was mentioned in the announcement of funding for in 74 per cent of instances where the project was located in an ALP held electorate. By way of comparison:

- there were six successful applications located in the three electorates held by an Independent Member, each of which was the subject of an official announcement that funding had been approved. The Federal Members for Lyne (two approved applications) and New England (one approved application) were mentioned in the respective official announcements, but the Independent Member for Kennedy was not mentioned in the official announcement for any of the three approved projects in his electorate²³⁹; and
- the relevant Member of the House of Representatives was not mentioned in the official funding announcement for any of the 49 instances where the project was located in an electorate held by the Coalition.

6.39 The absence of any reference to Coalition Members of Parliament remained the case, even for those instances where the support of the Coalition

²³⁸ It was often the case that the Minister's Office would give the local Coalition Member verbal advice of the outcome of grant applications. Where a grant was approved, this was followed by formal written advice from the Minister.

²³⁹ For one of these projects, as outlined in Table 5.2, 'strong representations' from the Member for Kennedy had been a factor contributing to funding being awarded for the project.

Federal Member had played an important role in funding being approved. In particular, as outlined in Table 5.2, on 21 April 2009 the Minister's Office informed the department that the Minister had received strong representations about three applications from the Members for Mayo, Riverina and Farrer and, accordingly, the Minister asked the department to undertake a risk assessment of these applications (none of which had been shortlisted against the criteria approved by Cabinet on 19 March 2009). Each of the projects was approved for funding, partly due to the assessment that they had strong community support (despite this criterion not having been identified in the published Program Guidelines or in any of the subsequently approved prioritisation criteria).

7. Program outcomes

This chapter examines progress towards achieving the program objectives of creating local jobs and stimulating local economies in the short term and medium term.

Introduction

7.1 The recent report of ANAO's audit of the BER P21 provided an overview of the financial conditions in 2008–09 that led most advanced economies to implement some form of fiscal stimulus to support employment and promote economic recovery. In this respect, the Australian Government announced a series of stimulus measures in late 2008 and early 2009, including the:

- Economic Security Strategy (announced on 14 October 2008);
- Council of Australian Governments (COAG) Funding Package (announced on 29 November 2008);
- Nation Building Package (announced 12 December 2008);
- Nation Building and Jobs Plan (announced 3 February 2009);
- Jobs, Training and Youth Transitions Package (announced 30 April 2009); and
- Nation Building Infrastructure Measures (announced May 2009).

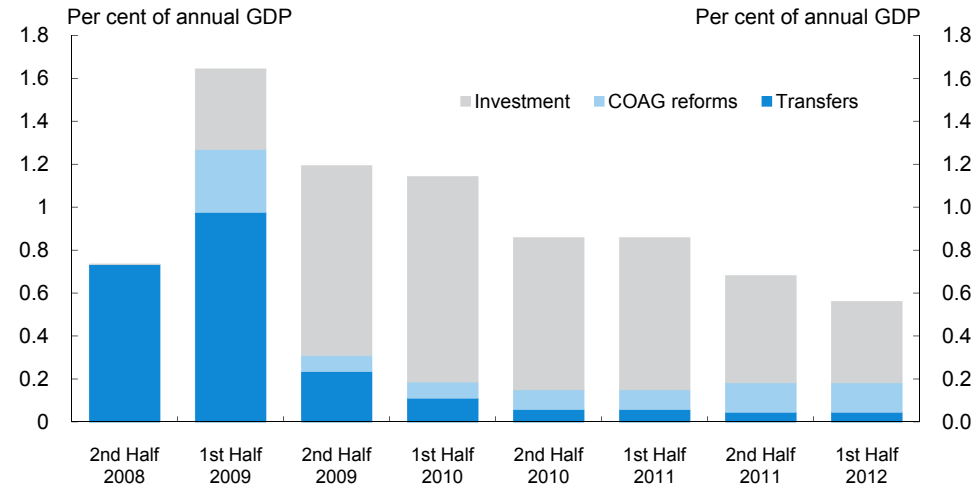
7.2 The first phase of fiscal measures was designed to provide immediate support to growth—largely through transfer payments to households. Subsequent measures were largely investment-related, most notably infrastructure investment under the Nation Building and Jobs Plan (see Figure 7.1).²⁴⁰ This approach reflected that these packages were aimed at delivering a broad range of short, medium and long-term stimulatory measures. The Strategic Projects component of the RLCIP was one element of the medium term stimulatory measures. In addition to the intention of providing timely economic stimulus, the RLCIP was also expected to provide

²⁴⁰ Henry, K., *The Global Financial Crisis and the Road to Recovery*, Speech to the Australian Institute of Company Directors on 23 September 2009, available from <treasury.gov.au> [accessed 17 November 2009].

longer term community infrastructure investment by funding additional projects not already underway, or additional stages of projects that were already underway. In July 2010, the Minister commented to ANAO that the 137 approved projects under the Strategic Projects component of the RLCIP had stimulated local economies and provided confidence into local governments representing over 12 million people and, collectively, leveraged in excess of \$1.5 billion in partnership funding thereby resulting in this amount flowing into local communities.

Figure 7.1

Allocation of fiscal stimulus



Source: Commonwealth Budget 2009–10: Overview.

Job creation

7.3 One of the most important measures for the various economic stimulus programs are their effect on employment. At the Commonwealth level, Treasury has been assigned responsibility for monitoring the overall economic effect of the various measures, including the total number of jobs supported. Employment effects are estimated by Treasury at an aggregate level using standard macroeconomic modelling which captures not only the initial effect of the stimulus, but also the broader effects as the stimulus is transmitted to

other parts of the economy.²⁴¹ Treasury's analysis of the economic stimulus plan's effect on employment has been reported during implementation, including in the most recent Coordinator-General's progress report released in February 2010.

7.4 As noted at paragraph 5.18, one of the principal motivations of the Government's economic stimulus package was to support employment.²⁴² In total, the Government's stimulus packages announced before and as part of the 2009–10 Budget were forecast to raise the level of GDP by 2¾ per cent in 2009–10 and 1½ per cent in 2010–11, compared to taking no action. This increase in GDP was forecast to translate into support for up to 210 000 jobs, with a peak unemployment rate of around 1½ percentage points lower than if no Government action was taken.

Application assessment and approval processes

7.5 An important factor in determining the appropriate application process for a grant program is the information that will be required in order to properly assess applications and adequately inform funding decisions. In this respect, although one of the objectives of the RLCIP was to create local jobs, as outlined at paragraph 5.18:

- the Program Guidelines did not advise councils that the creation or preservation of jobs was an objective of the Program, or that applications would be assessed having regard to the number and nature of the envisaged employment outcomes of the project either during the construction stage, or ongoing; and
- the application form asked councils to describe their project and what it would deliver, but it did not seek data on the envisaged employment creation or protection outcomes of the project.

7.6 As a result, the project-specific information provided to the Minister by the department on 14 April 2009 did not include any data as to how many jobs, and the type of jobs, each competing application would create or preserve.

²⁴¹ ANAO Audit Report No. 33, 2009–10, op. cit., pp. 23, 25, 41, 127 and 137.

²⁴² House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *The Global Financial Crisis and regional Australia*, November 2009, p. 57.

Accordingly, the Minister's decision as to which projects should be recommended to Cabinet for funding approval was not informed by any data at the project level on the planned job outcomes for each competing application. This was later reflected in the department's inability, in most cases, to provide the Minister's Office with the employment outcomes expected to be generated by a project for inclusion in the media release announcing the award of funding.²⁴³

7.7 This oversight has been addressed in the Frequently Asked Questions document published in January 2010 for Round 2 of the Strategic Projects component, which:

- advised councils that: 'applications will be strengthened if they quantify the impact of the end product on the local community and set specific targets to be achieved'; and
- included within the examples of possible outcomes applicants listing the number of jobs that would be created.

7.8 Further in this respect, the application form for Round 2 included a new question asking councils to specify how many full-time job equivalents would be created by the project during construction, as well as how many full time job equivalents will be created by the project post construction for five years.

7.9 Nevertheless, and as outlined at paragraph 5.69, as was the case for round one, the Program Guidelines for round two of the Strategic Projects component do not identify the assessment criteria that will be applied in selecting between competing eligible applications. By way of comparison, the published guidelines for round two of the Local Jobs stream of the Jobs Fund include an assessment criterion, 'Create and retain jobs and develop skills', which is directly related to the employment outcomes, together with advice on the matters applicants should address in relation to that criterion, as follows:

2. Create and retain jobs and develop skills

Where applicable your response should:

²⁴³ See further at paragraphs 5.19 to 5.20

- provide details of how your project will create or retain jobs (including work experience positions, traineeships, apprenticeships) in both the long term and short term
- demonstrate how your project will create local jobs for local people
- demonstrate how the project will not unfairly compete with existing local businesses
- provide details of how the project will produce training and pathways to long term employment
- provide details of how the project will assist apprentices/trainees who have been made redundant to complete their apprenticeship/traineeship
- projects which have an infrastructure component must ensure that at least 10 per cent of the total contract hours are undertaken by apprentices, trainees or those seeking to up-skill, where this does not result in unreasonable costs to business.

7.10 The published guidelines state that this criterion, and the other four specified assessment criteria, must each be met in order for applications to be considered for Local Jobs round two funding (see Figure 5.1). An identical approach (and criterion) was included in the published guidelines for the second round of the Get Local Communities working stream of the Jobs Fund.

Contracting for project and program outcomes

7.11 Many aspects of the Nation Building and Jobs Plan were to be delivered by States and Territories under the new federal financial relations framework, in particular through the *National Partnership Agreement (NPA) on the Nation Building and Jobs Plan: Building Prosperity and Supporting Jobs Now*.²⁴⁴ However, Strategic Projects component funding was provided direct to local government and so was delivered through the usual discretionary grants administration arrangement of a Funding Agreement being signed with each successful applicant.

7.12 To assist projects commence and proceed in a timely manner, once the successful councils had been advised that they had been approved for funding

²⁴⁴ ANAO Audit Report No. 33, 2009–10, op. cit., p. 13.

the department worked expeditiously to develop and sign Funding Agreements, and make the initial upfront payments. A total of 136 Funding Agreements were signed between 5 June 2009 and 26 June 2009. The remaining Funding Agreement was signed on 24 July 2009—the delay being caused by changes required to the standard Program Funding Agreement to enable the relevant council to transfer ownership of the Gold Coast Stadium to Stadiums Queensland.

7.13 Achieving an outcomes orientation is a key principle to be applied in the design and implementation of grant programs. In this respect, it is reasonable to expect that assessment criteria and the decision-making process will be framed and applied so as to select successful applicants on the basis of the outcomes expected to be achieved. In this context, the Funding Agreement is a key tool for securing the anticipated outcomes that assisted to form the basis of funding approval.

7.14 However, the shortcomings in the Strategic Projects component round one application process, by which data on job creation/preservation was not obtained to inform funding decisions, were compounded by the Funding Agreements executed with successful applicants not incorporating any provisions outlining intended outcomes for the relevant project (including, for example, employment outcomes) or how these would be measured and reported to the department.²⁴⁵ In particular, the Funding Agreements executed with councils approved for funding in the first funding round of the Strategic Projects component did not:

- specify targets for jobs that were to be created or preserved through the provision of funding to the relevant project; or

²⁴⁵ This was notwithstanding the departmental procedures including a checklist for Funding Agreement preparation which required that officials be satisfied that 'The Funding Agreement includes performance measures and expected outcomes to enable the Department to collate information to determine project success and program outcomes.' This procedure was developed in response to the relevant part of Recommendation 19 in ANAO's audit of the Regional Partnerships Program, which was that the department promote the achievement of, and accountability for, outcomes for approved projects by using data reported by funding recipients on the extent to which the project has achieved the outcomes specified in the Funding Agreement (as measured by the contracted performance measures) to inform future Programme evaluations and provide more comprehensive reporting in departmental Annual Reports of the achievement of expected project outcomes.

- require the council to report on progress towards, and achievement of, the expected employment outcomes.

7.15 This was the case even for those projects for which the application had stated that a certain employment outcome would result from the relevant project, and that expected outcome had been announced as part of the funding announcement.

7.16 While there will generally be caveats with respect to the numbers of jobs created from one source of funding, information on the number of jobs created or preserved would have been beneficial to inform the progressive assessment of program outcomes, particularly in providing an early indication of the stimulus effect on employment. It would also have been beneficial for any overall evaluation of the Strategic Projects component noting that robust evaluation of overall program outcomes is to be the third phase of the overall economic stimulus programs.²⁴⁶

7.17 By way of comparison, the standard Funding Agreement adopted by DITRDLG to administer the \$40 million National Bike Path Projects component of the Jobs Fund²⁴⁷ (another economic stimulus grant program) requires that each progress report provided by funding recipients, as well as the final report for each project:

- estimate the number of Short Term Jobs and Long Term Jobs that are either created or maintained (or both) indirectly and describe how the estimate was calculated; and
- provide documentary evidence supporting the specified number of Short Term Jobs and Long Term Jobs which are either created or are maintained (or both).²⁴⁸

7.18 In June 2010, the department informed the ANAO that the need to roll out the program quickly to meet the expectations of government and the

²⁴⁶ Commonwealth of Australia, 2010, *Commonwealth Coordinator-General's Progress Report to 31 December 2009*, Canberra, p. 18.

²⁴⁷ The value of program funding approved for individual projects under that program has ranged from \$11 750 to \$2.0 million.

²⁴⁸ The National Bike Path Projects program uses two forms of standard Funding Agreement. The above requirements were included in both the Short Form (to be used for projects where the GST exclusive value of the grant was under \$100 000) and the Long Form Funding Agreement.

community was a key factor in the way the department delivered the Strategic Projects component of the RLCIP. The department has also informed ANAO that:

- a comparison between the Strategic Projects component of the RLCIP and the Jobs Fund is not appropriate as the Jobs Fund's prime objective was specifically to achieve jobs rather than being part of the broader stimulus package;
- nevertheless, jobs were supported and created as part of the infrastructure funding provided through the RLCIP, with Treasury being responsible for reporting on job numbers at a broad level; and
- the Strategic Projects component is expected to provide longer term community infrastructure investment to support jobs in the out years and provide ongoing community benefits.

Recommendation No.3

7.19 ANAO *recommends* that, in the design of future grant programs, the Department of Infrastructure, Transport, Regional Development and Local Government give more consistent support to the achievement of key program objectives by:

- (a) obtaining information from project proponents on the extent to which their proposal is expected to contribute to program objectives;
- (b) analysing the outcomes information submitted by proponents so that funding decisions can be informed by a robust assessment of the merits of competing proposals; and
- (c) through the Funding Agreement, requiring funding recipients to report on progress toward, and the final achievement of, the anticipated project outcomes that informed the decision to award funding.

DITRDLG response

7.20 DITRDLG agreed to the recommendation.

Program expenditure

7.21 Funding for the Strategic Projects component was included as an administered expense within the department's 2008–09 Outcome 3 annual appropriation: 'Assisting regions and local government to develop and

manage their futures'.²⁴⁹ The original \$50 million in funding for Strategic Projects component grants was included in *Appropriation Act (No. 3) 2008–09*. The additional \$500 million was appropriated through *Appropriation (Nation Building and Jobs) Act No. 2 2008–09*. In respect to this funding, DITRDG's published performance indicator is to:

Ensure that projects that received funding are delivered on time and on budget.²⁵⁰

7.22 This indicator is consistent with the Treasury modelling of the desired stimulatory effects of infrastructure spending. In this respect, in April 2010, Treasury advised ANAO that:

As a general point, when factoring in the effects of policy on the economic forecasts, our starting point is that policy is implemented as announced by the Government. Our forecasts for activity under the Nation Building and Jobs Plan therefore largely followed the Budgeted spend under each program.

When we updated our forecasts for Budget in May 2009, we followed a similar profile for stimulus activity as adopted at *[the] Updated Economic and Fiscal Outlook (UEFO)*. However, we added a forecast year at Budget for 2010–11. Treasury followed the same methodology as at UEFO, forecasting that the stimulus would impact in line with the budgeted spend.

As implementation of the Nation Building and Jobs Program programs progressed, more data became available on the profile of activity under the programs. In particular, we were able to factor in data from State and Territory reporting mechanisms.

The most-recent Mid Year Economic and Fiscal Outlook (MYEFO) forecasts reflected this additional information. They suggested a small shift in the profile of activity compared with the original UEFO and Budget profiles—amounting to around one full quarter of activity. The small change incorporated in the MYEFO forecasts had little impact on our overall estimates of the effects of fiscal stimulus over the forecast horizon.

²⁴⁹ The department's Outcome 3 is now described as 'Coordinated community infrastructure and services in rural, regional and local government areas through financial assistance.'

²⁵⁰ Portfolio Budget Statements 2009–10, Budget Related Paper No. 1.13, *Infrastructure, Transport, Regional Development and Local Government Portfolio*, May 2009, p. 90.

7.23 In this context, the Strategic Projects component was budgeted to have \$300 million paid out in 2008–09, with the remaining \$250 million to be paid out in 2009–10. In respect to the program outcomes, in June 2010 the department drew ANAO’s attention to:

the challenges in delivering the program within tight timeframes, while also recognising the significant community infrastructure being delivered by the program. Importantly, the ANAO report could also acknowledge that the prompt approval²⁵¹ of projects facilitated confidence and improved certainty in local government and construction sectors, in addition to the stimulus effect of the delivery of the projects over the duration of the project.

This was an important element in maintaining business confidence through the economic downturn. The Government sought to ensure through its immediate and medium fiscal measures that companies were less likely to make staff redundant in the knowledge there was a prospect of future work, such as through infrastructure projects like those funded under the program which went out beyond the 2009–2010 year.

Impact of project selection on program delivery

7.24 Equitably and transparently selecting funding recipients that best represent value for money in the context of the stated objectives of the grant-giving activity contributes significantly to efficient, effective and ethical grants administration. In this respect, various ANAO audits of grant programs have highlighted that, in addition to promoting public confidence in the conduct of grant activities, selecting grant applications that demonstrably satisfy soundly-based selection criteria is considerably more likely to lead to a positive result in terms of achieving program objectives, as well as being efficient for agencies to administer. In other words, selecting the best applications promotes optimal outcomes in an efficient manner.

²⁵¹ As outlined at paragraphs 6.23 to 6.36, the prompt announcement of projects (in addition to prompt approval of funding) would have assisted to provide confidence and improved certainty in local government and the construction sectors.

7.25 Against this background, the criterion adopted by the Government for the design of the stimulus packages was that they be timely, targeted and temporary.²⁵² In this respect, in April 2010, Treasury advised ANAO that:

The Nation Building and Jobs Plan programs were designed to be delivered in a timely and efficient manner. In particular, the Government had put in place a comprehensive monitoring regime, through the Office of the Coordinator-General, to ensure that activity took place in a timely fashion. As the programs were designed to minimise lags in activity taking place, we assumed minimal lags in our forecasts.

Project commencement

7.26 Achievement of the program timetable, which involved Funding Agreements being signed in June 2009 and a requirement that construction commence within six months of Funding Agreement execution, required funding to have been focused on projects that, based upon the assessment of the application submitted, would demonstrably commence sometime between July and December 2009. Further in this respect, the underlying objective of achieving timely, targeted and temporary economic stimulus would have been promoted by having projects start as early in this six month period as possible.

7.27 However, as well as making the task of developing and signing Funding Agreements more difficult, the high proportion of incomplete applications that were approved for funding increased the risk that projects would not commence within the required six months. This was particularly the case, for example, where documentation had been excluded from the application because it did not exist (rather than due to an oversight)—for example, where projects did not have in place the necessary approvals or designs had not been completed.

7.28 The Funding Agreements signed in respect to each successful application stated that:

- ‘You must Commence Construction as required by the Activity within six months of the Date of this Agreement’; and

²⁵² House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *The Global Financial Crisis and regional Australia*, November 2009, p. 55.

- included a robust definition of ‘Commence Construction’ as ‘to begin a continuous program of on-site construction. Only significant and continuous site preparation work such as major clearing or excavation or placement, assembly, or installation of facilities or equipment at the site are considered to constitute a program of on-site construction’.²⁵³

7.29 Based on reporting to the department by councils, 75 per cent of funded projects had commenced continuous construction by 31 December 2009 (see Table 7.2). This level of performance was well ahead of that reported for the BER P21 Program, wherein 18.6 per cent of the approved projects had commenced construction by the 1 December 2009 commencement milestone established for that Program.²⁵⁴

²⁵³ By way of comparison, project commencement for the BER P21 program was defined as ‘the undertaking of any action, post any design phase that incurs an expense covered by BER for that project’. Source: ANAO Audit Report No. 33, 2009–10, op. cit., p. 15.

²⁵⁴ See further at ANAO Audit Report No. 33, 2009–10, op. cit., p. 15.

Table 7.1**Reported project commencement dates by month**

Month and Year	Number of projects reported as having commenced	Cumulative projects reported as having commenced	
		Number	%
March 2009	1	1	0.7
April 2009	0	1	0.7
May 2009	0	1	0.7
June 2009	3	4	2.9
July 2009	9	13	9.5
August 2009	11	24	17.5
September 2009	10	34	24.8
October 2009	19	53	38.7
November 2009	28	81	59.1
December 2009	22	103	75.2
January 2010	10	113	82.5
February 2010	2	115	83.9
March 2010	8	123	89.8
April 2010	6	129	94.2

Source: ANAO analysis of DITRDLG data.

7.30 An example of one project that had commenced within the first six months related to Mosman Council's application for \$2.0 million in Strategic Projects funding towards the total estimated \$2.76 million cost of a multi-purpose sports facility on the Drill Hall Common in Mosman.²⁵⁵ The project was to provide a multi-purpose sports facility catering to a range of indoor sports, in order to meet the sporting needs of the local community. The application had outlined that construction would commence in July 2009 but tenders were not called until September 2009 with construction works commencing in November 2009 (see Figure 7.2) with site establishment work. Notwithstanding the delay in commencing construction (as indicated in the

²⁵⁵ The department's initial eligibility and compliance checking assessed the project as non-compliant due to the application being incomplete, with the department's risk assessment drawing attention to risks associated with incomplete documentation, including no evidence that the necessary approvals had been obtained and no project plan.

application), the project timetable (as at December 2009) proposed that the project would be completed in August 2010, some two months earlier than the October 2010 date included in the application.

Figure 7.2

Mosman Council Multi purpose sports facility at the Drill Hall Common



Source: ANAO site visit, March 2010.

7.31 An example of the projects for which commencement of construction was delayed involved Waverley Council's application for \$2.0 million to guarantee that construction of a large multi-purpose indoor court, storage and changerooms would be included as part of the development, design and construction of a new recreation and amenities building at the location of the current Waverley Pavilion (which has been closed since September 2007

because it had become structurally unsafe).²⁵⁶ At the time of ANAO's March 2010 site visit, construction work had not commenced (see Figure 7.3).

Figure 7.3

Waverley Council Waverley Park Pavilion and Amenities Building



Source: ANAO site visit, March 2010.

7.32 Whilst a significant proportion of projects were reported to DITRDLG as having commenced within six months, ANAO analysis is that interpretation of reporting by councils of project commencement dates has not been sufficiently accurate. Specifically, ANAO audit fieldwork in respect to a random sample of funded applications identified that, notwithstanding that some projects had been reported as having commenced in calendar 2009, a continuous program of on-site construction was not actually underway at that time. For example:

- the Council of the Municipality of Ashfield had reported to DITRDLG that its Ashfield Council Centre Stage 2 Redevelopment Project (a project to redevelop the civic square into an integrated civic, arts and

²⁵⁶ This broader project was proceeding irrespective of whether Strategic Projects component funding was awarded for the additional works. The Funding Agreement was not drafted to require that construction of the large multi-purpose indoor court, storage and changerooms being included as part of the project. Rather, it was drafted to focus the use of the Commonwealth funding on work that was always planned as part of the broader project (in particular, relocation of existing temporary facilities and demolition of the existing Waverley pavilion).

community space through upgrading of the town hall, youth resources facility and early childhood centre) had commenced on 13 June 2009. However, this commencement date actually related to Stage 1 of the project (the predecessor stage to that being funded by the Strategic Projects component). At the time of ANAO's March 2010 site visit, construction of Stage 2 had still not commenced;

- as outlined at paragraphs 4.19 to 4.21, Bega Shire Council's Sapphire Aquatic Centre project did not commence physical construction until February 2010, although reporting to DITRDLG had claimed that construction had commenced on 6 October 2009;²⁵⁷ and
- Newcastle City Council had reported that its Newcastle Museum Redevelopment Project had commenced construction on 30 November 2009 but the only construction works undertaken in calendar 2009 related to the movement of an electrical transformer²⁵⁸. At the time of ANAO's March 2010 site visit, the substantive elements of the construction works had not yet commenced.

7.33 Against this background, ANAO analysis (see Figure 7.7 and paragraph 7.54) is that a more reliable indicator of construction commencement and progress (than council reporting of construction commencement) has been the reported achievement of project milestones and whether level of expenditure reported on the funded projects was sufficient for the second milestone payment to be made on time. In this respect, only 10 of the 137 approved projects had proceeded sufficiently to receive their second milestone payment within one month of it being due under the terms of the relevant Funding Agreement.

²⁵⁷ The reported construction commencement date was also inconsistent with council's progress report submitted to the department on 13 November 2009 which had advised that the Development Application had been approved and that documentation for a Construction Certificate had been lodged on 5 November 2009.

²⁵⁸ In July 2010, Newcastle City Council informed ANAO that, as the project's Construction Certificate was not granted until 28 January 2010, continuous construction could not have been occurring on-site prior to this date. Notwithstanding this situation, Council's milestone 2 report provided to the department stated that 'Commencement of construction' had been achieved on 30 November 2009. As noted, 'commencement of construction' is defined in the Funding Agreement as a continuous program of on-site construction. Council further informed ANAO in July 2010 that, on 6 April 2010 the site was 'handed over' to the successful Construction Contractor and on 17 May 2010 a 'commencement of work ceremony' was held.'

Project progress

7.34 In order to achieve the economic stimulus objectives of the Program, projects needed to be sufficiently well developed (as demonstrated through the assessment of the project application) to enable them to be completed in a timely manner. In this respect, as noted, the Strategic Projects component funding was scheduled to be paid out in 2008–09 and 2009–10. This timeframe was supported by the Funding Agreements signed in June and July 2009 under which the last project payment was scheduled to be made on 30 June 2010.²⁵⁹

7.35 However, for 45 of the 137 approved projects (33 per cent), the relevant council had indicated in its application that the project would not be delivered within 18 months. These projects were approved for a total of \$235.3 million in Program funding ahead of 254 other applications (seeking a total of \$925.9 million in Program funding) which had each indicated that the relevant project would be delivered in the desired economic stimulus timeframe (34 of these projects—seeking \$138.8 million in Program funding—had been included in those shortlisted by the department and categorised as ‘recommended subject to available funding’).

7.36 The risk of projects not being undertaken in the desired stimulatory timeframe were further increased (as outlined in Chapters 5 and 6) because:

- for 90 of the approved projects, the departmental risk assessment had identified that one or more key items of information had not been included with the application; and
- 42 of the approved projects had been assessed as having a *Severe* or *High* project delivery risk rating (pre-risk treatment).

7.37 In addition to asking councils to report on the commencement of construction work, the department has monitored whether projects are tracking in accordance with their respective Funding Agreements, the extent to which Funding Agreement variations have been approved (and the impact of these on project completion dates) and whether progress reports were being

²⁵⁹ In some instances, the Commonwealth funding was being directed at early stages of a larger project such that the overall project will be completed after the particular activities that are Commonwealth-funded. Accordingly, whilst the completion dates for the Commonwealth-funded activities ranged between 28 September 2009 and 30 July 2012 whereas the completion dates for the overall project specified in the various Funding Agreements ranged between 28 September 2009 and 30 June 2013.

submitted and progress payments claimed. Whilst the department's assessment was that the majority of projects were proceeding in accordance with their Funding Agreements, by the end of December 2009 the department had received a significant number of Funding Agreement variation requests and the number of progress reports being submitted by councils was well below the number that should have been provided.

7.38 Notwithstanding departmental staff pursuing the relevant councils regarding the overdue reports, by the end of January 2010 there remained a significant number of progress reports that had not been received. In its program monitoring reports, the department recognised that the large number of overdue progress reports was impacting on the achievement of the planned level of program expenditure.

7.39 The situation in relation to progress reporting and program expenditure deteriorated further over February 2010 and March 2010. The department's analysis of reporting by councils was that, at the end of February 2010, in 67 per cent of instances, further payments subsequent to the advance paid upon Funding Agreement execution had not been sought by councils because they had incurred insufficient expenditure on the project to warrant any further payment of grant funds. A significant number of projects were reported as having commenced construction during February 2010 and the department's expectation at the end of March 2010 was that, as many projects had now reached the major physical construction stage, there should be a considerable improvement to the deficit in the payment schedule for the Strategic Projects component over the course of April 2010.

Aggregate program expenditure

7.40 The November 2008 Guidelines for the original \$50 million Strategic Projects component had outlined that Funding Agreements would be structured to schedule the release of 100 per cent of funds to proponents on signing of the Funding Agreement. At its 9 February 2009 meeting, at which an increase in Program funding was agreed, the Strategic Priorities and Budget Committee of Cabinet agreed that DITRDLG and the Department of Finance and Deregulation should agree an approach to balance between upfront and milestone payments for individual projects that was contingent on the proponents' demonstrated capacity to implement projects quickly.

7.41 Councils were required to include with their applications three year cash flow projections for the organisation (including the capital cost of the project that was the subject of the application), as well as a business plan for the project with cash flow projections. This information could be expected to provide a sound basis for identifying the cash flow needs of individual projects in order to arrive at a balance between upfront and milestone payments that reflected the relevant proponent's capacity to spend grant funds on the project in a timeframe consistent with the Program's stimulus objectives. However, rather than draw upon this data, it was decided that all projects with grant funding under \$6 million would receive a 50 per cent upfront payment; all projects with grant funding between \$6 million and \$10 million would receive a 35 per cent upfront payment; and all projects with grant funding over \$10 million would receive a 25 per cent upfront payment.²⁶⁰

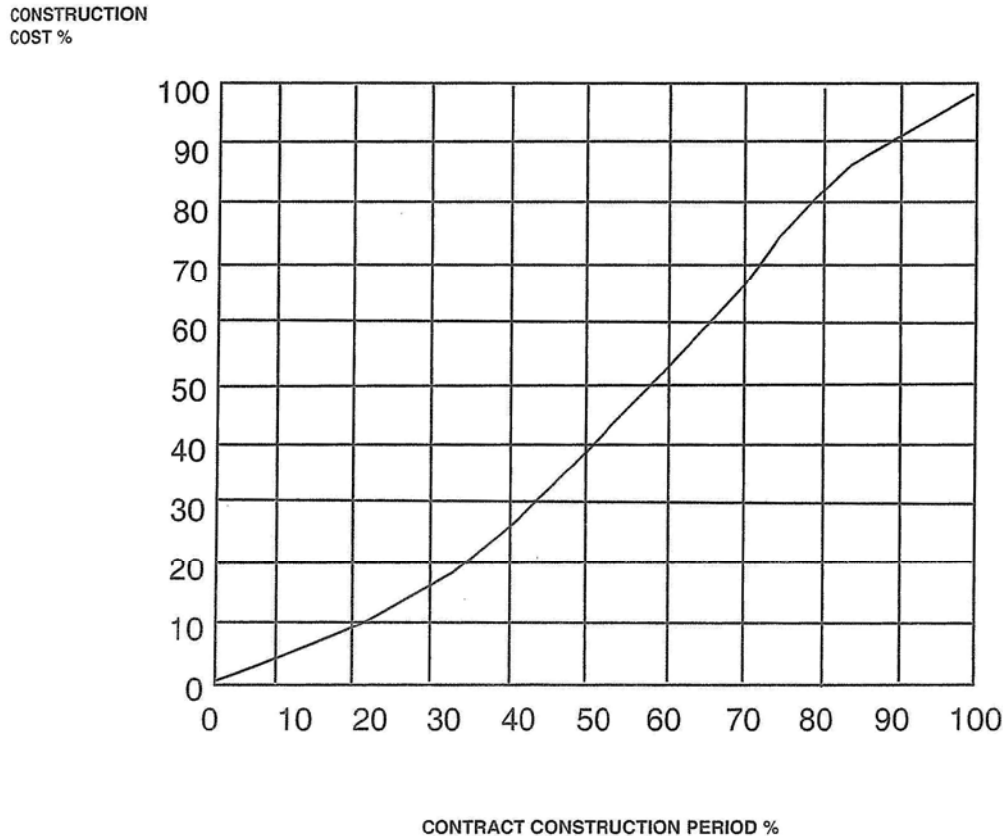
7.42 This approach also did not reflect the typical situation found in respect to construction projects. In particular, as noted in ANAO's audit of the BER P21 Program,²⁶¹ expenditure on construction projects typically follows an S-curve, usually with a slow start but reaching a peak by the 50 per cent to 75 per cent complete construction milestones before flattening out towards the end of the project (see Figure 7.4).

²⁶⁰ The revised financial arrangements were reflected in revised Program Guidelines published on 13 February 2009, following the \$500 million increase in Program funding announced as part of the Nation Building and Jobs Plan.

²⁶¹ ANAO Audit Report No. 33, 2009–10, *Building the Education Revolution—Primary Schools for the 21st Century*, Canberra, 5 May 2010, paragraph 7.11.

Figure 7.4

Typical construction project cash flows



Source: Rawlinson's Australian Construction Handbook, 2008.

7.43 For project-based grants, value for money and sound risk-management can be promoted by funds becoming payable only upon the demonstrated completion of work that represents a milestone defined in the relevant Funding Agreement. Determining the funding to be paid upon reaching a milestone by reference to actual project expenditure expected to be incurred to that date protects public money²⁶² and, in the context of economic stimulus spending programs, means that program payment data can be relied upon as a

²⁶² In other words, it is not advisable for agencies to draft funding agreements such that a grant instalment will become payable in response to achievement of a stage in the project that does not give rise to significant costs to the proponent.

reliable measure of the extent to which the program has made a substantive contribution to economic activity, rather than simply transferring funds from the Commonwealth to the approved funding recipients. However, in addition to adopting fixed percentages for upfront payments irrespective of individual projects' cash flow needs, the approach taken for the Strategic Projects component involved the use of fixed percentage instalment payments set according to the value of the grant (see Table 7.2), rather than tailoring the instalment payment arrangements to reflect the cash flow needs of each project.

Table 7.2

Instalment payment arrangements for approved grants

Size of grant	Upfront payment	Second payment	Third payment	Fourth payment
Less than \$6 million	50 per cent	20 per cent	15 per cent	15 per cent
\$6 million to \$10 million	35 per cent	25 per cent	20 per cent	20 per cent
Greater than \$10 million	25 per cent	25 per cent	25 per cent	25 per cent

Source: ANAO analysis of DITRDLG data.

7.44 Further in this respect, the Funding Agreement adopted for the Strategic Projects component required that progress reports acquit payments already made by the department, but permitted further payments to be made irrespective of whether the Commonwealth funds already paid had been spent and/or committed.²⁶³ This approach compounded the shortcoming (observed at paragraph 7.43) that Strategic Projects component Funding Agreements had been drafted in a way that did not relate the funding to be paid upon reaching a milestone to actual project expenditure expected to be incurred to that date. By way of comparison, the Funding Agreement adopted for the Regional Partnerships Program:

- similar to that for the Strategic Projects component, had required that previous payments be acquitted through progress reports; but

²⁶³ By way of comparison, for the BER P21 Program the payment arrangements provided the Australian Government with the right to withhold funding where Education Authorities had used less than half of funding provided in the previous financial year. Source: ANAO Audit Report No. 33, 2009–10, op. cit., pp. 78–79.

- adopted a more robust approach in that it had specified that payments subsequent to the upfront payment would not be made until an acquittal showing that previous payments had been fully expended, or evidence that the previous payments would be fully expended in the near future, had been accepted by the department.²⁶⁴

7.45 The shortcoming observed in respect to the predecessor Regional Partnerships program was that the department did not administer payments in accordance with the Funding Agreement terms.

Achieved progress to 31 December 2009

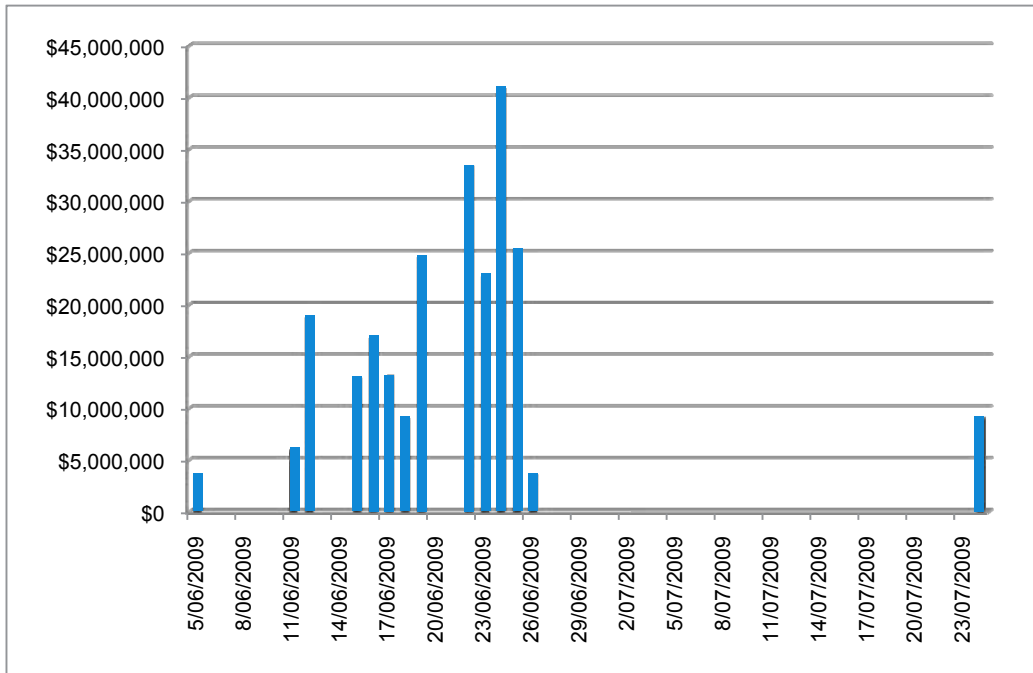
7.46 In respect to the progress of funded projects under the Strategic Projects component, the Commonwealth Coordinator-General's *Progress Report to 31 December 2009* stated that:

At 31 December 2009, over \$248 million had been paid to councils based on their construction progress.²⁶⁵

7.47 However, the significant majority (\$238.99 million or 97 per cent) of the \$247.8 million that had been paid to councils by 31 December 2009 did not relate to construction progress. Rather, as had been proposed in the Program Guidelines and Frequently Asked Questions document, Funding Agreements had been structured to schedule the release of between 25 per cent and 50 per cent of funds up front to proponents, depending on the funding amount, with the remaining grant funds to be paid incrementally on the achievement of milestones. In this respect, first instalment payments totalling \$229.99 million were made between 5 June 2009 and 26 June 2009, with a further \$9 million first instalment paid on 24 July 2009 for the only project whose Funding Agreement was not signed before 30 June 2009 (see Figure 7.5).

²⁶⁴ ANAO Audit Report No. 14 2007–08, Volume 2—Main Report, op. cit., p. 529.

²⁶⁵ Commonwealth of Australia, 2010, *Commonwealth Coordinator-General's Progress Report to 31 December 2009*, Canberra, p. 41.

Figure 7.5**Upfront payments made upon signing of Funding Agreements: June and July 2009**

Source: ANAO analysis of DITRDLG data.

7.48 Of the \$247.8 million in program funds paid to funding recipients as at 31 December 2009, councils had reported that a total of \$27.95 million had been spent (11.3 per cent). Further, in this respect, had projects been proceeding in accordance with the Funding Agreement milestones, milestone payments of \$83.15 million would have been made by 31 December 2009. However, actual milestone payments made to that date totalled only \$8.45 million, some 90 per cent lower than planned.

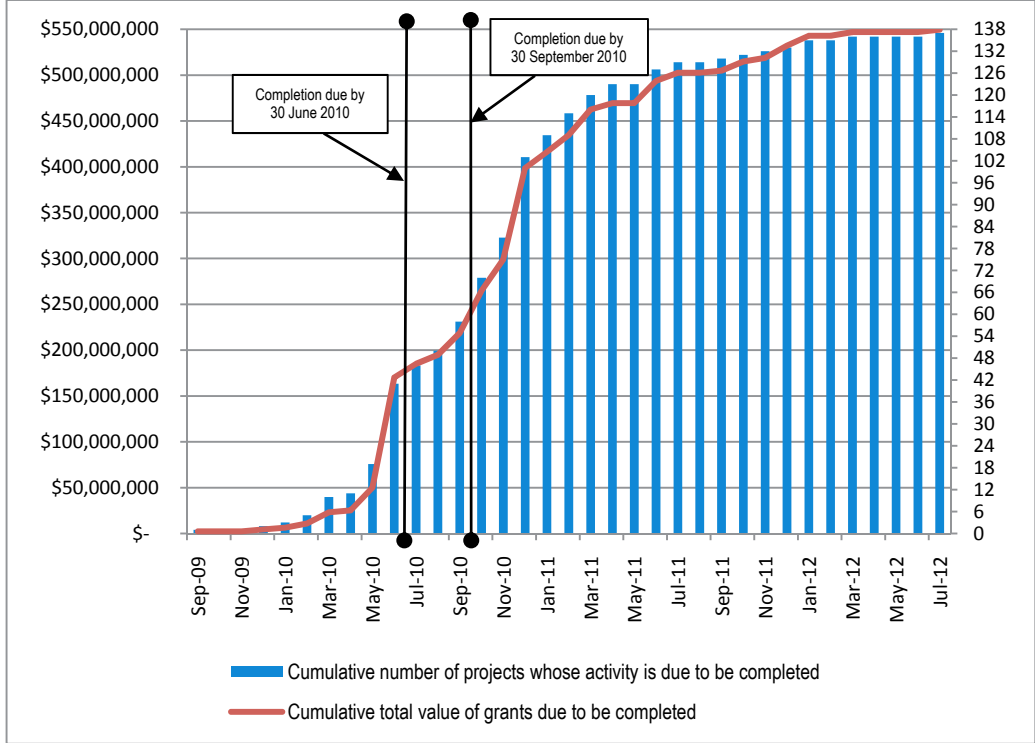
7.49 For each approved project, the Funding Agreement specified that the last project payment was scheduled to be made on or before 30 June 2010, although for many projects the funded activity²⁶⁶ was not expected to be

²⁶⁶ In some instances, the Commonwealth funding was being directed at early stages of a larger project such that the overall project will be completed after the particular activities that are Commonwealth-funded.

completed for some considerable time after 30 June 2010 (see Figure 7.6). Specifically, under the terms of the Funding Agreements signed in June and July 2009, a total of 41 projects involving aggregate funding of \$170.4 million were to complete the activity being funded by the Commonwealth on or before 30 June 2010, with a further 17 projects involving funding of \$48.4 million due to have the funded activity completed in the following three months (to 30 September 2010). In respect to the remaining 79 projects (58 per cent) involving aggregate funding of \$330.7 million were due to have the funded activity completed between October 2010 and July 2012.

Figure 7.6

Activity completion dates from original Funding Agreements



Source: ANAO analysis of DITRDLG data.

Recommendation No.4

7.50 ANAO recommends that, in the interests of having program expenditure better reflect its substantive economic effect, the Department of Infrastructure, Transport, Regional Development and Local Government identify opportunities in future grant programs with an economic stimulus objective to

tie payments to proponents more closely to the cash flow needs of approved projects.

DITRDLG response

7.51 DITRDLG agreed to the recommendation.

Achieved progress to 31 March 2010

7.52 ANAO's audit of the BER P21 Program had similarly noted that, as at December 2009, expenditure of program funds had fallen substantially short of what would be expected if anticipated payment milestones had been met by schools.²⁶⁷ For that Program, the expectation was that construction expenditure would accelerate rapidly from the first quarter of 2010 onwards.²⁶⁸

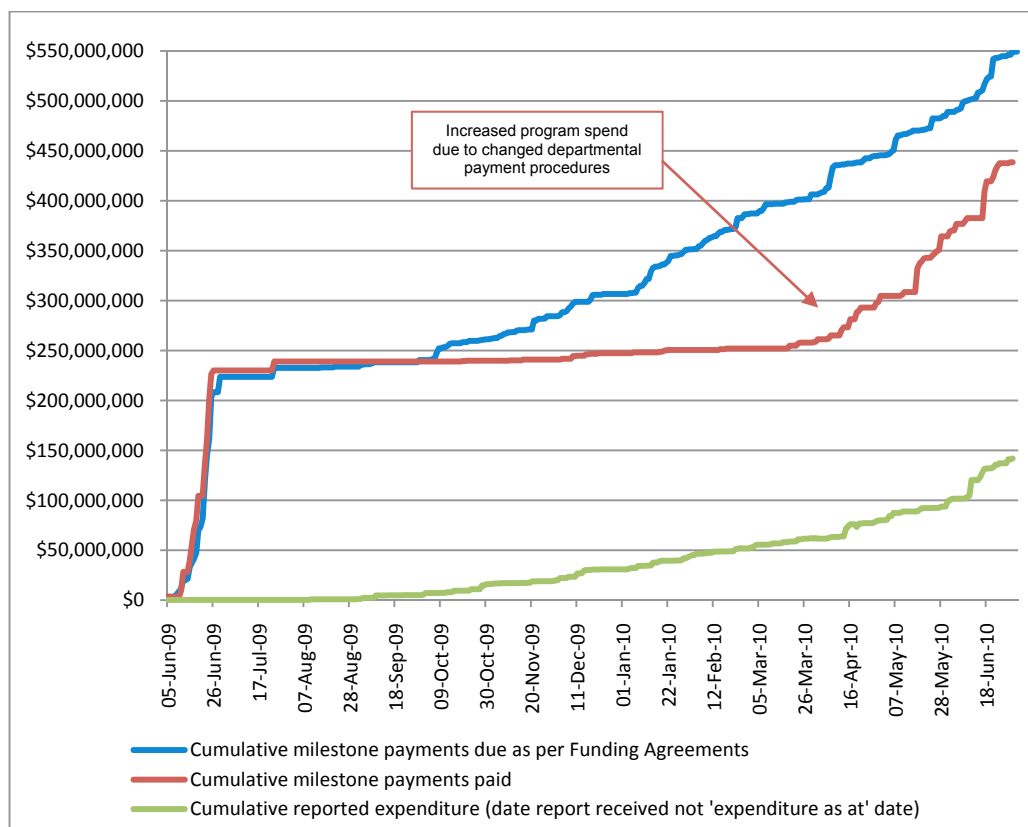
7.53 In respect to the Strategic Projects component of the RLCIP, by 31 March 2010, total grant payments made had risen by a further \$28.75 million, to \$276.88 million. However, these payments remained \$129.51 million (32 per cent) below the level that should have been paid had projects been progressing in accordance with the milestones specified in the respective Funding Agreements (see Figure 7.7).

²⁶⁷ ANAO Audit Report No. 33, 2009–10, *Building the Education Revolution—Primary Schools for the 21st Century*, Canberra, 5 May 2010, paragraph 7.10 and Figure 7.3.

²⁶⁸ ANAO Audit Report No. 33, 2009–10, *Building the Education Revolution—Primary Schools for the 21st Century*, Canberra, 5 May 2010, paragraph 7.12.

Figure 7.7

Scheduled payments to councils, actual payments made to councils and expenditure of Strategic Projects payments reported by councils



Source: ANAO analysis of DITRD LG data.

7.54 In addition to payments to councils falling below the level expected had projects proceeded in accordance with the Funding Agreement, Figure 7.7 highlights that, according to the department's program management database, by 30 June 2010 councils had reported to the department that they had spent some \$142 million of the nearly \$438.5 million paid to them (some 32 per cent). In this respect, the department had adopted a sound approach to administering Program payments with the procedures manual in place as of October 2009 stating that:

Before releasing second and subsequent payments, departmental staff must be satisfied that:

- Progress Reports have been assessed and accepted

- Milestones have been met, and
- previous funding has been accounted for, expended or committed for expenditure through receipt of an itemised expenditure statement and if need be, any invoices, particularly where large equipment purchases are the main form of expenditure.

7.55 This procedure was consistent with the department's response to ANAO's audit of the Regional Partnerships Program, in respect to which the department had advised that:

- one of the key messages reinforced in staff training was that payments should not be made in advance of need; and
- the revised internal procedures manual for that Program required the Funding Agreement payment schedule to be based on need and to be subject to the achievement of appropriate project milestones.²⁶⁹

7.56 For example, on 16 October 2009, the department received a progress report from the Moreton Bay Regional Council concerning its State Equestrian Centre project at Caboolture. The department assessed that the second and third project milestones had been achieved.²⁷⁰ There was no further payment associated with the achievement of the second milestone, but the Funding Agreement included a payment of \$760 000 associated with the third milestone with a due date for payment of 13 November 2009. However, as only \$34 393 of the \$1.9 million upfront payment had been spent (and a further \$292 000 committed), the department decided not to make any further payments at that time.²⁷¹ The approach taken in respect to the second payment (relating to the

²⁶⁹ ANAO Audit Report No. 14 2007–08, Volume 2—Main Report, op. cit., p. 533.

²⁷⁰ The first milestone for each grant required (a) the Funding Agreement to be signed and (b) a properly rendered invoice for the correct amount.

²⁷¹ In July 2010, Moreton Bay Regional Council informed ANAO that 'The delay in expenditure at this stage of the project was due to difficulty in obtaining final approvals from various state government departments for example Queensland Department of Transport and Main Roads and Queensland Department of Environment and Resource Management. Currently, Council is still awaiting final approval from the Department of Environment and Resource Management in relation to vegetation protection matters. Further project delays which have affected roadwork construction have also been experienced due to the heavy rainfall events during March and April 2010. The department has granted approval for some minor amendments to the reporting schedule given the progress of the project to date.' In May 2010, Council had reported expenditure of \$254 400 against the project with a further \$760 000 then paid by the department bringing the total paid to that date in respect of the Strategic Projects grant to \$2.66 million.

second and third milestones) appropriately safeguards public money, promotes achievement of the obligation to make proper use of Commonwealth resources and provides a financial incentive for proponents to progress their project in a timely manner (noting that economic stimulus spending programs were intended to be designed and implemented as timely, targeted and temporary initiatives).

7.57 However, only making further payments when councils had spent or committed the upfront payment contributed to overall program expenditure being slower and lower than had been budgeted. As shown in Figure 7.7, the department made arrangements to increase program spending by making further payments before 30 June 2010 irrespective of whether councils had yet spent or committed the funds already advanced to them. This was in lieu of the more sound practice previously adopted of only making further payments when project milestones had been made and payments previously made had been fully spent and/or committed.

7.58 Notwithstanding the steps now being taken to increase program payments to councils (illustrated in Figure 7.7 commencing with some \$46 million in payments to councils being made in April 2010, compared with \$19.8 million having been paid over the previous eight months), and that each of the 137 Funding Agreements (as originally signed) required that projects would have proceeded sufficiently so as to allow all Commonwealth funding be paid on or before 30 June 2010,²⁷² a significant rephasing of funds (\$112 million²⁷³) from 2009–10 to 2010–11 was necessary.

7.59 The delays in expenditure against the original budgeted profile reflect significant delays in projects commencing, progressing and/or incurring expenditure. In large part, this situation reflects that a large proportion of the projects approved for funding were not ready to proceed; were planned to be delivered over a longer timeframe than that necessary to provide timely

²⁷² The Funding Agreements required progress reports to continue to be submitted up to and including completion of the project, irrespective of whether all Commonwealth funding had been paid. According to the Funding Agreements, the City of Swan's Swan River Regional Park development is the last project due to be completed (in June 2013). This project was also the first announced for funding (see further at paragraph 5.38).

²⁷³ Infrastructure, Transport, Regional Development and Local Government Portfolio, *Portfolio Budget Statements 2010–11*, Budget Related Paper No. 1.14, May 2010, p. 87.

stimulus; and/or involved *High* project delivery risks which have been realised (because such risks are inherently difficult to manage through a Funding Agreement, rather than directing funding at projects with a lower risk profile). In this respect, and as noted by the Coordinator-General, it will be important for agencies to assess the outcomes achieved, and consider the learnings and legacies of the stimulus response.²⁷⁴ In this respect, key performance indicators for the Strategic Projects component could include:

- the extent to which aggregate Program payments are being made in accordance with the timelines established in the Funding Agreements originally signed with councils;
- the extent to which Funding Agreements have been varied to reflect project delays with a consequential delay in the payment of funds to councils; and
- the aggregate level of council expenditure of Program payments on approved projects compared with the aggregate amount of funds that have been paid to councils.

²⁷⁴ Commonwealth of Australia, 2010, *Commonwealth Coordinator-General's Progress Report to 31 December 2009*, Canberra, p. 18.

Recommendation No.5

7.60 ANAO *recommends* that, given the importance to economic stimulus outcomes of minimising lags between Program payments to councils and use of these funds by councils, the Department of Infrastructure, Transport, Regional Development and Local Government publicly report against key performance indicators for the Strategic Projects component of the Regional and Local Community Infrastructure Program, including the extent to which program funds paid to councils have been spent.

DITRD LG response

7.61 DITRD LG agreed to the recommendation.



Ian McPhee
Auditor-General

Canberra ACT
27 July 2010

Appendices

Appendix 1: Formal Comments on the Proposed Report

Department of Infrastructure, Transport, Regional Development and Local Government

The Department of Infrastructure, Transport, Regional Development and Local Government notes that ANAO's audit of the Strategic Projects element of the Regional and Local Community Infrastructure Program has made a series of recommendations to improve the administration of grant programs.

The department agrees to all five recommendations, noting that each, in effect, reflects existing guidance now published in the Commonwealth Grant Guidelines. The department is committed to continuous improvement and will use the report and its recommendations to assist in the further development of its business processes.

The department is however concerned that the report does not present a balanced perspective on the program. In particular the draft report does not examine or recognise the community benefits arising from the investment in community facilities. Importantly, there is no acknowledgement of the success of the program in meeting its objective to build local community infrastructure, resulting in economic stimulus, job creation and overcoming a serious backlog of community infrastructure across the nation.²⁷⁵

Economic Stimulus Context

This program was implemented in the context of the global economic crisis and was part of the Government's response to the emerging crisis. Between September 2008 and the 2009 Budget, the Government dealt with an unfolding global financial and economic crisis which required senior Ministers to re-consider and adjust policy and program settings as the impacts of the crisis became clearer. This included considering projects which would not only provide an immediate economic stimulus but also provide community infrastructure investment for the recovery post 2010-11. The program's environment changed significantly as Government adapted its approach to

²⁷⁵ Paragraphs 20, 38 to 40 and 90 to 102 in the summary and Chapter 7 in the body of the report examines the program outcomes in terms of the objectives set by the Government.

ensure stimulus measures were appropriate to address the crisis, and to the program's expansion from \$50 million to \$550 million.

This context is fundamental to the analysis of the program.²⁷⁶ As acknowledged in the ANAO's recent 'Building the Education Revolution-Primary Schools for the 21st Century' Audit Report, this environment was critical to the way in which senior Ministers took decisions relating to the distribution of projects and program delivery. In the case of the RLCIP - SP program, the imperative to roll out the program to inject confidence into local communities and businesses was a key factor in the assessment methodology and the delivery of this program. The unprecedented timeframes and the changing shape of the response by Governments between September 2008 and May 2009 are also critical to any proper understanding of the program.²⁷⁷

This evolution is documented in the series of Cabinet decisions made from January to March 2009.²⁷⁸ The Cabinet decisions, which set the requirements for the program, reflect the way in which the Government was dealing with a progression of measures. These measures ranged from the immediate fiscal stimulus through to maintaining confidence and demand in the economy; and then to projects which would provide jobs and demand into the subsequent years.

The audit report fails to acknowledge the complementary nature of the program to the Government's other stimulatory strategies or to recognise that the Government was putting in place measures beyond 2008-09 financial year.²⁷⁹ The RLCIP has two interrelated components: \$250m which was distributed to all councils and \$550m focused on a smaller number of larger Strategic Projects. These components were designed to be complementary and to be delivered simultaneously for the economic stimulus to be fully effective.

²⁷⁶ The Program's context is recognised in paragraph 14 in the summary and paragraph 2.25 within the body of the report.

²⁷⁷ Paragraph 39 in the summary and paragraphs 4.8 to 4.9 and paragraph 7.18 in the body recognise the need to roll out the program quickly.

²⁷⁸ This evolution is reflected in Figure S 1 in the summary and Figure 2.1 in the body of the report.

²⁷⁹ Paragraph 2 in the summary and paragraphs 1.3 to 1.6, 1.11 to 1.21 and 7.1 to 7.2 in the body of the report recognise that the Government adopted a series of fiscal measures to support employment and economic recovery.

We have consistently put the position that these complementary programs should have been examined together.²⁸⁰

Criticism of the Strategic Projects component on the basis of it not progressing adequately or completing until 2012 is unwarranted in the context of the short-term stimulus being provided through the \$250 million component and the confidence-building nature of the larger strategic projects (\$550 million) over the medium to longer term.²⁸¹

The \$250 million component was directed at stimulating additional growth and economic activity as part of the Australian Government's contribution to address the global economic crisis. The funds were available for additional ready-to-proceed community infrastructure projects and for additional stages of projects that were currently underway. The funding was provided directly to all councils as a one-off, up-front payment. These projects were commenced quickly and provided immediate stimulus in all communities throughout Australia.²⁸²

The Strategic Projects component was made available to a smaller number of relatively larger local councils²⁸³ to stimulate additional growth and economic activity in strategic areas across Australia as a part of the Australian Government's contribution to addressing the medium to longer term consequences of the global economic crisis. Funding was available for projects seeking a minimum contribution of \$2 million. The Government made clear

²⁸⁰ ANAO's audit approach to conducting separate audits of the two components was outlined to the department at the commencement of the audit in May 2009 and no concerns in this regard were raised until after the audit issues papers were provided to the department in May 2010. Paragraphs 1.11 to 1.18 in the body of the audit report outlines the relationship between the two components of the RLCIP including providing some information on the Council Allocation component.

²⁸¹ Paragraphs 38 to 40 in the summary and paragraphs 7.21 to 7.59 in the body of the report examine the performance of the program in the context of the stated objective that all program funding was to be paid on or before 30 June 2010.

²⁸² See paragraph 1.17 in the body of the report in respect to progress with stimulus spending under the \$250 million Council Allocation component.

²⁸³ Paragraphs 31, 35 and 86 in the summary and paragraph 3.9 in the body of the report outline that the published Program Guidelines permitted all councils irrespective of their size to apply for funding towards the cost of a large strategic project and that funding would be allocated to applicants on a nationally competitive basis. Figure S 1 in the summary and Figure 2.1 and paragraphs 4.3 and 4.6 in the body of the report outline that criteria to focus funding consideration on larger councils were established after applications closed and were not advised to councils.

decisions that larger projects and projects which included partnership funding were to be given preference.²⁸⁴

The draft audit report underplays the assessment undertaken by the department through the use of Independent Viability Assessments and the advice and recommendations provided to the Minister on projects. Of particular note is the substantial package of advice provided on 14 April 2009 on all 202 projects shortlisted against the Cabinet direction of 19 March, which provided the Minister with detailed risk and viability advice on every shortlisted project to inform his consideration and recommendations. This advice also made clear which of the projects were assessed by the department as suitable for funding.²⁸⁵

The draft report is also critical of the department's use of funding agreements to manage risk and project delivery. This criticism does not give sufficient recognition to the need to balance speed of implementation with the detailed process of assessing and treating project risk. The department considers its process of identification and treatment of risk, including the use of strict provisions within funding agreements to manage risk to the Commonwealth, was appropriate in an environment that demanded immediate action. It enabled the Government to fund many worthwhile community projects delivered by councils (which represent an accountable level of Government) in the midst of the Global Financial Crisis that would otherwise have been excluded because some of the project details remained unsettled.²⁸⁶

The audit report also comments that the department's '...administrative arrangements have been unable to compensate for the shortcomings in the approach taken to assessing applications and the selection of which project

²⁸⁴ Paragraphs 27, 28 and 77 in the summary as well as paragraphs 5.13 to 5.15 in the body of the report outlines the three criteria documented as having been used to identify which projects were to be recommended for funding approval.

²⁸⁵ Paragraphs 25, 76 and 5.11 outlined the purpose and results of the department's risk assessment activities. Chapter 4 of the audit report examines in detail the conduct of the risk assessments and their results.

²⁸⁶ Table 4.3 outlines that, in selecting projects, preference was not given to those representing the lowest risk with a number of projects assessed as representing a low risk not approved for funding whereas others that had been assessed to represent high or severe project delivery or project sustainability risks were approved for funding. Paragraphs 69 and 70 in the summary and paragraphs 4.50 to 4.56 in the body of the report relate to the effectiveness of the department's treatment of risks through the Funding Agreements.

should be approved for funding.’ The department’s analysis has not identified any statistical evidence to support a relationship between the completeness of the applications and the timely commencement of projects.²⁸⁷

The Allocation of Funding

The audit report acknowledges that the criteria applied by the Minister on 22 April 2009 and subsequently endorsed by Cabinet were consistent with program objectives and published guidelines and that there was no evidence to suggest that the short-listing criteria were intended to benefit electorates of one party compared to another. Notwithstanding that, the report then provides an extensive analysis based around political parties and states/territories, particularly in respect of the number of applications received.²⁸⁸

As noted above, the Strategic Projects component of RLCIP was designed to fund larger, more strategic projects. This extensive analysis of the relationship between applications and funded projects on an electoral and jurisdictional basis is misleading in the context of deliberate Government decision making to give preference to larger councils to maximise the impact of the response to the Global Financial Crisis, both in terms of capacity to deliver and population sizes. Councils in Western Australia, Northern Territory and Tasmania, for example, were less successful on a per application basis under the Strategic Project component of the RLCIP because councils in these states are typically more numerous and represent smaller populations. Similarly, a far greater number of Coalition electorates contain smaller councils, changing the balance of the pool from which the successful projects were selected. The report’s analysis of the ‘success’ of ALP electorates is unbalanced and in effect misleading in this context, particularly without any corresponding analysis of

²⁸⁷ Paragraphs 23, 52 and 92 in the summary and paragraphs 3.20 to 3.25 in the body of the report outline that the program design recognised that only complete applications should be eligible for funding because incomplete applications were less likely to achieve the timely economic stimulus objective of the Program. Each version of the published program guidelines stated that incomplete applications would not be considered for funding.

²⁸⁸ Paragraph 35 in the summary outlines that the distribution analysis (included at paragraphs 85 to 89 in the summary as well as in Chapter 6 of the body of the audit report) was undertaken in circumstances where the published program guidelines stated that projects would be allocated funding on a nationally competitive basis through an application process open to all local councils but there was no documented assessment of each application in terms of the three selection criteria nominated by the Minister.

the size and number of councils in each jurisdiction. For example, the number of councils varies from 139 in WA to 73 in Qld and 79 in Victoria, both of which have larger populations than WA.²⁸⁹

The draft report does not²⁹⁰ provide a breakdown for the 202 projects shortlisted based on the 19 March Cabinet decision which shows that 52.5 per cent of these applications were from ALP seats. This of course more closely matches the percentage of ALP seats in the House of Representatives.

Party held seat	Applications	Percentage of applications
ALP	106	52.5%
Coalition	81	40.1%
Independent	15	7.4%
TOTAL	202	100%

Overall, the audit report’s analysis focuses attention on the disproportionate ‘success’ of applications from ALP and Independent electorates, and sits uncomfortably with the report’s acknowledgement that the geographic spread of total funding is reasonable, that the electorate spread is consistent with the proportion of seats held by the major parties in the House of Representatives, and that the four largest projects (representing \$83.5m or almost one sixth of the available funding), were located in non-Government electorates. It fails to give appropriate weight to the final allocation of funding (57 per cent of funding was allocated to projects in ALP electorates with the ALP holding 55 per cent of all electorates), which does not suggest any political bias. It does not highlight the strong correlation between funded projects and population across the jurisdictions, nor does it acknowledge that the 137 projects endorsed by Cabinet provided funding to councils covering over 12 million Australians.

Cabinet Decision Making

Cabinet is responsible for determining Government priorities and making informed decisions. The audit report comments adversely on the way in which the Minister and Cabinet documented the decision-making process relating to

²⁸⁹ Table 4.1 includes data on local government populations by State, with Table 6.1 outlining the distribution of funding by State.

²⁹⁰ Paragraph 6.7 includes ANAO analysis of the distribution of funding in respect of those shortlisted projects that the department advised the Minister could be considered for possible funding approval.

successful projects, stating that ‘the Minister’s correspondence alone did not provide a sufficient record of the assessments that had been undertaken and ... the basis for why it was decided that certain applications were more worthy ... (than) ... other applications.’ However, earlier in the same paragraph the audit report clearly states that ‘Minister’s correspondence to the Cabinet Secretary ... outlining the three criteria that had been taken into account, documented the basis of the recommendations made to Cabinet about which applications merited being approved for funding.’²⁹¹

²⁹¹ Paragraphs 81 and 82 in the summary and paragraph 5.55 in the body of the report outline that, just as specifying the assessment criteria in Program Guidelines does not obviate the need for a record as to how the criteria were applied to each competing application, the Minister’s correspondence alone did not provide a sufficient record of the assessments that had been undertaken and, in particular, the basis for why it was decided that certain applications were more worthy of being approved for funding compared with other applications. Further, as indicated in paragraphs 25, 36 and 84 in the summary and paragraphs 5.45 and 5.57 in the body of the report, the department did not provide recommendations to the Minister about which projects should be approved within the available funding of \$550 million despite a formal requirement on the department from the enhanced grants administration framework (effective from December 2007) for departments to provide advice to the decision-maker on the merits of each proposed grant before any decision is made about whether to approve the grant.

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