

The Auditor-General  
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Performance Audit

# **Design and Implementation of the Liveable Cities Program**

Department of Infrastructure and Transport

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Canberra ACT  
8 August 2013

Dear Mr President  
Dear Madam Speaker

The Australian National Audit Office has undertaken an independent performance audit in the Department of Infrastructure and Transport 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 to the Parliament. The report is titled *Design and Implementation of the Liveable Cities 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

## AUDITING FOR AUSTRALIA

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

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# Abbreviations and Glossary

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ALP	Australian Labor Party
ANAO	Australian National Audit Office
ANAO Better Practice Guide	ANAO Better Practice Guide, <i>Implementing Better Practice Grants Administration</i> , Canberra, June 2010.
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 under FMA Regulation 7A. The first edition took effect from 1 July 2009 and the second edition took effect from 1 June 2013.
COAG	Council of Australian Governments
COAG national criteria for cities	Council of Australian Governments' national criteria for the future strategic planning of capital cities, agreed at the COAG meeting of 7 December 2009.
CVA	construction viability assessment
FAQs	frequently asked questions
Finance	Department of Finance and Deregulation
Finance Minister	Minister for Finance and Deregulation
FMA Regulations	<i>Financial Management and Accountability Regulations 1997</i>
FFR	Federal financial relations; relates to the framework established under the IGA FFR and payments made for the purposes of the FFR Act.



FFR Act	<i>Federal Financial Relations Act 2009</i> ; payments made for the purposes of this Act are excluded from being a grant under FMA Regulation 3A(2).
IGA FFR	Intergovernmental Agreement on Federal Financial Relations, agreed to by COAG in November 2008 (came into effect in January 2009). The IGA FFR establishes the framework for federal financial relations between the Commonwealth and States and Territories.
Infrastructure	Department of Infrastructure and Transport
JCPAA	Joint Committee of Public Accounts and Audit
KPIs	Key performance indicators
LCP	Liveable Cities Program
Minister	The Minister for Infrastructure and Transport
National Urban Policy	<i>Our Cities, Our Future—a national urban policy for a productive, sustainable and liveable future</i> , which was released by the Australian Government on 18 May 2011.
PIRP	The Department of Infrastructure and Transport’s program implementation review process
SNIP	Small National Infrastructure Programs; a unit within the Department of Infrastructure and Transport
Strategic Review of Grants	Strategic Review of the Administration of Australian Government Grant Programs, July 2008



## **Summary and Recommendations**



# Summary

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## Introduction

1. The Liveable Cities Program (LCP) is a competitive, merit-based grant program administered by the Department of Infrastructure and Transport (Infrastructure). A total of \$20 million was available under the program over the period 2011–12 to 2012–13. This period was later extended to 2013–14. LCP is part of the Australian Government's \$120 million Sustainable Communities package, released in conjunction with the National Urban Policy.<sup>1</sup> The objective of LCP is to improve the planning and design of major cities that are experiencing population growth pressures, and housing and transport affordability cost pressures.
2. LCP funding was available for planning and design projects (stream one) and demonstration construction-projects (stream two). Projects had to be located in one of the 18 major cities<sup>2</sup> that were the subject of the National Urban Policy. Local governments operating within those cities, as well as state and territory governments, were eligible to apply.
3. Infrastructure was responsible for receiving the LCP applications and checking that each one complied with the eligibility requirements. The department was then to assess each eligible application against the published assessment criteria and, for high-ranking stream two projects, consider construction viability risks. This assessment was to form the basis for its advice to the Minister for Infrastructure and Transport (the Minister) on the merits of each application and its recommendations as to which applications should be approved for funding.
4. In April 2012, the Minister approved a total of \$20 million in grants for 26 projects. Following a reversal of one funding decision by the Minister, and a withdrawal by one successful applicant, Infrastructure was responsible for negotiating agreements for 24 approved LCP projects. By the end of April 2013, agreements had been signed for 22 projects totalling \$15.33 million.

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1 *Our Cities, Our Future—a national urban policy for a productive, sustainable and liveable future*, known as the National Urban Policy, was released by the Australian Government on 18 May 2011. It sets out the Government's objectives and priorities for Australia's 18 major cities, as well as the Government's strategies, programs and actions to deliver its urban agenda.

2 These are the 18 Australian cities that have populations greater than 100 000.

## Audit objectives and criteria

5. The objective of the audit was to assess the effectiveness of the design and implementation of the LCP, including the assessment and approval of applications. The audit criteria reflected the requirements of the grants administration and better practices articulated in the Commonwealth Grant Guidelines and ANAO's Administration of Grants Better Practice Guide.

## Overall conclusion

6. Through the LCP, a total of \$20 million in grant funding was awarded to 26 projects located in 14 major cities across all states and territories.<sup>3</sup> These included seven infrastructure projects, primarily directed at improving pedestrian and cycling access but which also included the supply of low carbon energy, two residential developments and a rapid bus transit system. The other 19 projects approved were for planning, feasibility assessment and/or design activities that will inform future investment in infrastructure.

7. The distribution of funding in geographic terms and the nature of the demonstration projects provided the desired mix foreshadowed in the program guidelines so as to contribute to achieving the program objective of improving the planning and design of major cities. By the end of April 2013, funding agreements had been signed for the majority of the approved projects, with most of these projects contracted to be delivered by the program's amended completion date of 30 June 2014.

8. Infrastructure's management of the design and implementation of LCP was effective in most respects. Of note was that improvements were evident in the merit-assessment approach adopted by the department compared with earlier grant programs audited by ANAO. In particular:

- all eligible applications were assessed against published assessment criteria; and
- the scoring approach adopted enabled the comparison of the relative merits of applications against each criterion and in aggregate.

9. Infrastructure also adopted an improved approach to briefing the Minister on the outcome of the assessment process. The LCP briefing included

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3 Subsequently, the Minister reversed his approval of a \$500 000 project and one successful applicant withdrew, declining the offered \$300 000. See paragraphs 7.6 and 5.36 to 5.38 for further information.

a clear funding recommendation to the Minister based on the scores awarded against the assessment criteria and in consideration of the program objectives. In addition, a record was kept of the eight instances where the Minister's decision diverged from the recommendation of the department—three projects not recommended by Infrastructure were approved by the Minister, and five projects recommended by the department were not approved for funding. This approach provides transparency and accountability for the advice given by Infrastructure, and the funding decisions that were subsequently taken.

10. However, there remain opportunities for further improvements to Infrastructure's grants administration practices. Firstly, there were shortcomings with the assessment of applications in relation to the department's eligibility checking and aspects of its conduct of the merit-assessment process.<sup>4</sup> Secondly, it needs to be recognised that applications that are assessed as not satisfactorily meeting the published merit assessment criteria are most unlikely to represent value for money in the context of the program objectives.

11. In addition, an evaluation strategy was not developed at the outset of the program and remained outstanding as at May 2013, notwithstanding that most funding agreements had been signed by then and the program was nearly two years into its three year duration. Such a situation will have an adverse effect on the quality of advice to Ministers on any proposal to provide further funding to the program or to a similar program<sup>5</sup>, as well as in assessing the contribution the program has made to the objectives of the National Urban Policy.

12. As indicated, this audit of the LCP has identified improvements in key aspects of Infrastructure's grants administration practices, which should be embedded in all grant programs within the department. The ANAO has made three recommendations to address the further opportunities for improvement mentioned above relating to:

- enhancing the assessment of eligible applications, by clearly and consistently establishing benchmarks for scoring against assessment criteria and a minimum score an application is required to satisfy for

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4 In particular, there were inconsistencies in the scores awarded and planned quality assurance processes were not fully implemented. This situation adversely affected the reliability of the scores as a basis for determining the varying merits of competing applications in terms of the assessment criteria.

5 The original policy proposal envisaged a \$260 million program.

each criterion in order for an application to be considered for possible recommendation;

- recording the value for money offered by each proposal under consideration, having regard to the published program objectives and assessment criteria; and
- developing an evaluation strategy during the design of a program.

## Key findings by chapter

### Program governance framework (Chapter 2)

13. The LCP guidelines were sound. Importantly, they clearly identified and grouped eligibility and assessment criteria, and specified the process for lodging applications. The guidelines were also underpinned by a suite of governance documents necessary for the sound administration of the program.

14. The development of the guidelines and governance documents were informed by a number of initiatives implemented by Infrastructure to improve its program management and delivery (consistent with advice that the department had provided to the JCPAA). These included guidance from the department's program managers' toolkit and Major Infrastructure Projects Office. A review-ready workshop<sup>6</sup> and a program implementation review at the planning stage of LCP, were also undertaken. However, some valuable suggestions made at the workshop were not implemented and the program implementation review was only undertaken at one of the three critical review points.

15. Further, while the program managers' toolkit promoted the importance of program monitoring and evaluation, notably absent from the governance documents was a plan for measuring and evaluating the extent to which the LCP successfully achieved the program's outcomes. Also absent was a strategy for ensuring the LCP funding would generate lessons that would then be transferred and applied with the desired objectives of improved planning and design.

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6 A review-ready workshop is a facilitated discussion that aims to help teams think through goals, needs, outcomes and success criteria for their program, policy or regulatory activity.



### Access to the program (Chapter 3)

16. The grant application process was accessible to eligible applicants. The process for applying for LCP funding was effectively communicated to potential applicants through the guidelines and supplementary documentation. This was further supported by Infrastructure sending information and reminders directly to eligible organisations, and responding promptly to queries.

17. There were 170 applications received and these were assessed against the eligibility criteria as published in the LCP guidelines. Four applications were assessed as ineligible during the initial eligibility check. A further three applications were reassessed as ineligible during the subsequent merit-assessment stage. Therefore, 96 per cent of applications were assessed as eligible.

18. However, there were shortcomings with Infrastructure's implementation of its eligibility checking process. Assessors were to complete an eligibility checklist for each application. ANAO analysis of the available eligibility checklists—Infrastructure was unable to locate checklists for six applications—found that assessors had not recorded whether the application was eligible or ineligible on 40 per cent of these. Only one had been signed off as having been checked by the assessment team leader. Further, there were 43 applications for which eligibility concerns requiring follow-up were recorded, but the subsequent resolution of those concerns and decision to declare them eligible was not recorded.

19. Infrastructure advised ANAO that 'given the unexpected large number of applications that were received and that met eligibility requirements, the eligibility checklist process was truncated.' A risk with such an approach is that non-compliant applications may proceed to merit-assessment stage. In the interests of probity and fairness, it is expected that non-compliant applications would be clearly identified as ineligible and excluded from further consideration. The truncation of eligibility checking is an issue raised in earlier ANAO performance audits.<sup>7</sup> While the shortcomings identified with respect to LCP do not appear to have affected the funding outcome, these risks could be

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<sup>7</sup> See, for example, 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*, Canberra, 27 July 2010.

realised under future grant programs if the department does not adopt more robust eligibility checking processes.

**Assessment of eligible applications (Chapter 4)**

20. Improvements were evident in Infrastructure’s merit-assessment approach compared with earlier grant programs audited by ANAO. In particular, all eligible applications were assessed against the published assessment criteria, with a scoring approach adopted that enabled the relative merits of applications against each criterion, and in aggregate, to be compared. Specifically, applications were awarded a score out of five against each applicable criterion, which were added to produce an overall score for each project.

21. There were eight assessment criteria for LCP; the first five were applicable to all projects and the other three were only applicable to stream two (demonstration) projects. These are set out in the table below.

**Table S.1: LCP assessment criteria**

Core criteria applicable to all LCP projects	National Urban Policy criteria, only applicable to demonstration projects
1. Policy compliance	6. Liveability
2. Partnerships in planning and delivery	7. Sustainability
3. Strategic alignment	8. Productivity
4. Deliverability	
5. Funding	

Source: ANAO analysis of Liveable Cities Program guidelines.

22. The assessment records indicate that applications were consistently and transparently assessed against criterion 1, 6, 7 and 8. That is, the extent to which the project met the Council of Australian Governments’ national criteria for cities and the goals of the National Urban Policy.

23. In relation to criterion 2, 3, 4 and 5, while assessors adequately recorded their findings, there were inconsistencies in the scores awarded. This reflected the approach taken to staffing the assessment work and the lack of benchmarks to promote a consistent approach. Further, the planned quality assurance processes were not fully implemented. This situation adversely affected the reliability of the scores as a basis for determining the varying merits of competing applications in terms of the assessment criteria. Reliability could have been enhanced if, for each criterion, the assessor guidance contained

benchmarks for the achievement of each score on the rating scale and if those benchmarks had then been consistently applied in the assessment process. Such an approach is quite common in grant programs administered by other agencies.

**24.** Stream two applications were required to score highly against at least one of criterion 6, 7 and 8 to be considered for funding, which corresponded with the three goals of the National Urban Policy. Beyond this, there was no minimum standard set against the assessment criteria under either stream one or stream two. That is, eligible applications were ranked in order of merit solely on the basis of their overall scores. Applications therefore could be—and were—recommended for funding notwithstanding that they had been assessed as not satisfying an assessment criterion. As has previously been noted by ANAO, it is most unlikely that a proposal that does not demonstrably satisfy the merit assessment criteria set out in the published program guidelines to be considered to represent an efficient and effective use of public money and to be consistent with relevant policies (which are key elements of FMA Regulation 9<sup>8</sup>).<sup>9</sup>

**25.** An order of merit list was produced for each funding stream. Infrastructure selected the 18 highest ranked projects from the stream one order of merit list for funding recommendation. It also selected the five highest ranked projects from the stream two order of merit list. As the next six projects on that list were located in major cities already represented amongst the five higher ranked projects, they were not selected for recommendation. Instead, Infrastructure recommended the four projects listed immediately below them, which were located in major cities not already represented under stream two. Consistent with the program objectives, this approach was designed to provide a more diverse mix of projects in terms of project geography and project type.

**26.** Infrastructure advised the ANAO that the process it undertook allowed for the recommendation of projects that represented value for money and a

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8 FMA Regulation 9 sets out the principle obligation applying to the approval of all spending proposals. It requires an approver to make reasonable inquiries in order to be satisfied that a proposal would be a proper use of Commonwealth resources and would not be inconsistent with the policies of the Commonwealth. For grant spending proposals, the relevant policies include the CGGs and the specific guidelines established for the program.

9 The shortcomings with such an approach were previously raised by ANAO Audit Report No.38 2011–12, *Administration of the Private Irrigation Infrastructure Operators Program in New South Wales*, Canberra, 5 June 2012 and Audit Report No.1 2012–13, *Administration of the Renewable Energy Demonstration Program*, Canberra, 21 August 2012.

proper use of Commonwealth resources in the context of the objectives of the program. However, the department did not make an assessment record of whether, and to what extent, each eligible application had been assessed as representing value for money. Further in this respect, the department has advised ANAO that it considered that all ranked applications represented value for money, just to differing degrees. This is notwithstanding that the majority of the ranked applications had been scored a zero or a one out of five against one or more of the core assessment criteria.<sup>10</sup> Given the program was established to operate through a competitive, merit-based selection process, applications assessed as not meeting the criteria are most unlikely to represent value for money in the context of the program objectives.<sup>11</sup> As a minimum, some further explanation would be expected.

## **Advice to the Minister, and funding decisions (Chapter 5)**

27. Considerable improvement was evident in the approach taken by Infrastructure to briefing its Minister on the outcomes of the application assessment process, compared with other Infrastructure-administered grant programs examined by ANAO in recent years. In particular, the department provided the Minister with a clear funding recommendation that outlined, based on the results of the eligibility checking and merit-assessment processes, those applications that were considered to best contribute to the achievement of the program objectives.

28. Further, a record was made of those instances where the Minister decided to not approve some of the recommended applications, and approve some of those projects not recommended for funding.<sup>12</sup> It is open to a Minister to reach a decision different to that recommended by the agency. In such instances, it is expected that the recorded reasons for the decision would relate to the published program guidelines (including the relative merits of competing proposals in terms of the assessment criteria).

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10 Of the 119 ranked applications, which were scored by the department according to the approach outlined in Figure 4.1, 60 applications scored a zero ('unacceptable—does not meet the criteria at all or attempt to') and a further 11 applications scored a one ('very poor—meets some criteria but unacceptable') against one or more of the assessment criteria.

11 This has been recognised in respect to some Australian Government grant programs, with the guidelines outlining that applications must rate highly against each of the merit criteria to receive a grant offer.

12 These projects are identified in Table 5.1.

29. The Minister had rejected four recommended projects on the basis of preferring to fund three projects that had not been recommended. For one of the projects approved but not recommended, the recorded reason was relevant to the criteria and policy objectives and the project was selected over two recommended projects (being an equally ranked project and a lower-ranked project). Conversely, the recorded reasons for funding two other projects that had not been recommended did not relate to the program guidelines. In one case, a lower-ranked project was approved over a higher-ranked project in Adelaide after taking into account the expressed preferences of a South Australian Minister. In the other case, a stream one project was approved over a stream two project, taking account of the preferences of a Tasmanian Minister in favouring an application submitted by his government over another Tasmanian project submitted by a council (both state and local governments were eligible to compete for funding). The program guidelines did not provide for state government views to be sought, and this approach was not adopted in respect to other states.

30. In summary, the Minister approved 19 stream one (planning and design) projects for a total of \$5.56 million and seven stream two (demonstration) projects for \$14.44 million. The Minister later withdrew his approval of \$500 000 for a stream one project that had been recommended for funding.<sup>13</sup>

## **Grants reporting, funding distribution and feedback to applicants (Chapter 6)**

31. The outcomes of the LCP funding round were announced publicly, albeit over a six-week period.<sup>14</sup> All applicants were advised in writing of the outcome and unsuccessful applicants were given a reasonable opportunity to receive feedback. In addition, an avenue for submitting complaints or enquiries about funding decisions was made available to applicants but no complaints were received.

32. The distribution of funding in geographic terms, and the nature of the demonstration projects, provided the desired mix foreshadowed in the

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13 No reason was recorded by the Minister, nor was this required. The project was located in a state electorate that would be held by the Minister's spouse following a proposed redistribution of electoral boundaries. See further at paragraphs 5.36 to 5.38.

14 As a matter of good practice, it is preferable for all decisions on successful or unsuccessful projects to be announced together, or within a relatively short period of time.

program guidelines. In terms of political distribution, the majority of recommended and approved applications, and program funding, related to projects located in an electorate held by the Australian Labor Party. In this context, there were more electorates held by the Australian Labor Party that were eligible to receive funding.

33. To help achieve transparency and accountability in government decision-making, agencies and Ministerial decision-makers are subject to a number of reporting requirements. However, the extent to which the reporting requirements could promote these principles was limited as a consequence of LCP operating under two financial frameworks. That is, only the LCP payments to the 18 local government recipients were defined as grants and so were bound by the ministerial and public reporting requirements under the CGGs.<sup>15</sup> As such, the Minister was required to report to the Finance Minister only one of the three instances where he decided to approve a funding proposal that had not been recommended by Infrastructure. However, the report for calendar-year 2012 did not identify any instances where the Minister had approved a grant not recommended by Infrastructure.

34. Another consequence of operating under two frameworks is that details of LCP agreements with local government recipients were to be reported on Infrastructure's website, whereas the agreements with state governments were to be published on the Standing Council on Federal Financial Relations website. Having the information dispersed across multiple sites in this way reduces the efficiency and effectiveness of website publication as an accountability tool. This limitation was somewhat addressed by the department also choosing to publish the details of all LCP projects elsewhere on its website.

## **Project and program delivery, and evaluation (Chapter 7)**

35. According to the LCP guidelines, Infrastructure had planned to have signed agreements in place, and the 2011–12 appropriation of \$10 million

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15 The LCP payments to state government recipients were defined as payments made for the purposes of the *Federal Financial Relations Act 2009*. Such payments are explicitly excluded from the definition of a grant. The JCPAA stated in Report No. 427, *Inquiry into National Funding Agreements*, that it shared the concerns of the Auditor-General regarding the interaction between the federal financial relations framework and the grants framework. It recommended that Finance examine the interaction between the new grants framework and grant payments delivered under the FFR framework, and proposed options to remove inconsistencies and improve governance arrangements for all grants provided to states and territories. See further at paragraphs 2.18 to 2.20.

expended, by 30 June 2012. However, only two agreements were signed, and no payments were made, in 2011–12. By the end of April 2013 (10 months after the target date for signing agreements):

- agreements had been signed for 22 projects totalling \$15.33 million in funding;
- agreements had not yet been signed for the other two projects approved for a total of \$3.87 million; and
- \$0.8 million of the available funding remained unallocated (largely due to the reversal of a funding decision and a withdrawal by a successful applicant).

36. The LCP was originally due to end on 30 June 2013. However, only one of the signed agreements required the funded project to be completed by this date. The program's end-date was extended to 30 June 2014 via a movement of funds. Of the 22 signed agreements, 18 were scheduled to be completed by the extended end date.

37. There were also a number of aspects of the signed agreements that may not adequately protect the Commonwealth's interests. In particular, as has often been the case with grant programs administered by Infrastructure, payments have been contracted to be made in advance of project needs. This includes, under some agreements, a significant proportion of the funds being paid upfront without there being a demonstrated net benefit to the Commonwealth from doing so. All LCP payments are contracted to be made before the final project deliverable. In addition, Infrastructure did not fully implement the risk management strategies it had advised the Minister would be undertaken.<sup>16</sup>

38. The signed agreements contain requirements that will assist Infrastructure to monitor and evaluate performance at the individual project level. However, these requirements do not facilitate monitoring and evaluation of the desired program outcomes. In addition, it is unclear from the LCP guidelines or signed agreements how the department will identify lessons

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16 For example, in respect of five stream two projects, Infrastructure had advised the Minister that it would implement twelve specific risk treatments prior to signing the agreements. However, it only implemented four of these risk treatments. Further, Infrastructure's legal services section identified risks relating to the substantial involvement of a third-party in one of the projects and suggested amendments to the draft agreement so as to protect the Commonwealth's interests. These amendments were not incorporated into the signed agreement.



learned from the projects and then disseminate these to key stakeholders in a way that will help improve planning and design across the 18 major cities.

39. Further, the selection of LCP projects and development of funding agreements was not informed by an evaluation plan or program performance measurement framework. While such a plan can still be developed, the timing reduces Infrastructure's capacity to collect the performance data required for a robust and comprehensive program evaluation.

## Agency responses

40. The proposed audit report issued under section 19 of the *Auditor-General Act 1997* was provided to Infrastructure and the Minister, and relevant extracts were also provided to the Department of Finance and Deregulation and to the Department of the Treasury. Only Infrastructure provided formal comments on the proposed audit report and these are below, with the full response included at Appendix 1:

The Department notes the ANAO's positive comments about its practices under the Liveable Cities Program, particularly around the merit assessment of applications and the provision of clear funding recommendations to the Minister. The Department further notes the ANAO's conclusion that the nature and distribution of successful projects 'provided the desired mix foreshadowed in the program guidelines' so as to contribute to the objective of improving the planning and design of major cities.

In relation to the reporting and financial frameworks relevant to the program, the Department notes that it followed all relevant advice at the time and met, and in some cases, exceeded, the relevant reporting requirements. The ANAO's concerns about the inconsistencies in the relevant frameworks should be directed to the relevant central agencies.

The Department notes the ANAO's comments regarding some administrative issues that arose in the eligibility and assessment processes but stresses that these had no material impact on the selection of projects that were eventually funded. In relation to the eligibility checklists, in particular, the eligibility of all projects was considered during the broader assessment process.

The Department stands by its assessment process, which saw those projects receiving the highest overall merit score, and representing the greatest value for money, being recommended to the Minister. All successful projects met the eligibility requirements and received high overall merit scores. While some high-ranking projects were assessed as having low scores against the partnerships criteria, in particular, these criteria were not eligibility requirements. Through the design of the program, the Department sought to



encourage partnerships, but not to exclude projects without a high degree of partnership. Where projects put forward by individual proponents did very well against the other criteria they were still competitive. This allowed an appropriate mix of projects to be selected for funding.

Through its program design and implementation, the Department has been able to deliver a strong suite of projects, including a number of innovative projects and those where strong partnerships have been formed across jurisdictional and other boundaries. This has been done at the same time as working to establish new processes and manage the uncertainty inherent in a new program around the level of demand and the nature of applications. We note the ANAO's positive comments about the opportunities provided by the Department for feedback from unsuccessful applicants and, further, that there has not been a single complaint about the program by any stakeholders.

### **ANAO Comment:**

*41. The fourth paragraph of Infrastructure's response suggests that ANAO concerns about the composition of the merit list related only to applications being included that had scored poorly against the 'partnerships' criterion, which was identified in the program guidelines as being core criterion five 'funding'. However, that was not the only core criterion where a significant number of applications had been scored poorly. For example, a quarter of the applications on the merit list had been scored a zero or a one out of five against one or more of the other core criteria (including the 'policy compliance' criterion). This situation was reflected in the merit list descending to applications that had an overall total score as low as three out of 25. See further at paragraphs 4.82 and 4.88.*

# Recommendations

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

- Recommendation No.1**  
**Paragraph 4.80**
- ANAO recommends that the Department of Infrastructure and Transport further improve the assessment of eligible applications to competitive, merit-based grant programs by:
- (a) clearly and consistently articulating benchmarks and/or standards to inform the judgment of assessors when considering the extent to which an application has met the published assessment criteria; and
  - (b) establishing a minimum score that an application must achieve against each assessment criterion in order to progress in the assessment process as a possible candidate to be recommended for funding.

**Infrastructure response:** *Agreed in part*

- Recommendation No.2**  
**Paragraph 4.85**
- ANAO recommends that the Department of Infrastructure and Transport, in the conduct of grants assessment processes, clearly record the value for money offered by each proposal under consideration in the context of the program objectives and criteria.

**Infrastructure response:** *Not agreed*

**Recommendation  
No.3****Paragraph 7.69**

In the interest of achieving the desired program outcomes, ANAO recommends that the Department of Infrastructure and Transport develops an evaluation strategy for grant programs at an early stage of the program design, so that the necessary information to evaluate the contribution that individual projects make to the overall program outcomes can be captured during the application assessment process and reflected in funding agreements signed with the successful proponents.

**Infrastructure response:** *Agreed*



## **Audit Findings**



# 1. Introduction

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*This chapter provides an overview of the Liveable Cities Program and outlines the audit objective, scope and criteria.*

## Background

**1.1** The Council of Australian Governments (COAG) agreed on 7 December 2009 to a national objective ‘to ensure Australian cities are globally competitive, productive, sustainable, liveable and socially inclusive and are well placed to meet future challenges and growth’.<sup>17</sup> In May 2011, the Australian Government released its National Urban Policy—Our Cities, Our Future—which ‘sets a vision for our cities to deliver future prosperity and wellbeing for our communities and reinforces the Council of Australian Governments’ (COAG) national objective’.<sup>18</sup>

**1.2** In conjunction with the release of the National Urban Policy, the Australian Government announced a Sustainable Communities package providing \$120 million to state, territory and local governments to fund projects aimed at improving affordability and liveability in cities. This package included \$20 million over 2011–12 and 2012–13 for the Liveable Cities Program (LCP).<sup>19</sup>

**1.3** The objective of LCP was to improve the planning and design of major cities that are experiencing population growth pressures and housing and transport affordability cost pressures. Expected outcomes included:

- demonstration projects that facilitate innovative residential developments that promote housing affordability, adaptable and accessible housing and improve access to services and public transport;
- projects that create or enhance mixed use precincts that optimise public transport use such as the creation of transit malls and the redevelopment of significant public spaces; and

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17 COAG Meeting Communique, 7 December 2009, p. 20.

18 The Hon Anthony Albanese MP, Our Cities, Our Future—A National Urban Policy for a productive, sustainable and liveable future, ministerial statement, 10 May 2011, p. 2.

19 The original policy proposal envisaged a \$260 million program, which was reduced to \$20 million during budget discussions.

- strategic plans for major regional cities with populations greater than 100 000 in line with the COAG national criteria for cities, including the identification and preservation of critical infrastructure corridors, sites and buffers.

**1.4** LCP is administered by the Department of Infrastructure and Transport (Infrastructure). Funding decisions were made by the Minister for Infrastructure and Transport (the Minister).

## LCP funding round

**1.5** LCP funds were awarded through a single application round using a competitive, merit-based selection process. The program had two funding streams:

- Stream 1 provided up to \$500 000 for planning and design projects; and
- Stream 2 provided up to \$4 million for construction projects, which were termed ‘demonstration projects’.

**1.6** Projects had to be located in one of the 18 major cities<sup>20</sup> that were the subject of the National Urban Policy. The local governments operating within those cities, as well as state and territory governments, were eligible to apply. Projects had to be ready to proceed—but not have already commenced—and the Australian Government funded element was to be completed before 30 June 2013. Applicants could seek up to a maximum of 50 per cent of the project cost.

**1.7** Applications opened on 18 October 2011 and closed on 15 December 2011. There were 170 applications submitted, seeking funding totalling \$141 million. Of these, 163 applications were assessed by Infrastructure as being eligible. Infrastructure then assessed all eligible applications against the published assessment criteria, ranked them in order of merit and provided funding recommendations to its Minister.

**1.8** The Minister approved 19 planning and design projects for a total of \$5.56 million and seven demonstration projects for a total of \$14.44 million. The Minister later reversed his approval of one of the planning and design

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20 The 18 major cities are: Adelaide, Albury-Wodonga, Brisbane, Cairns, Canberra-Queanbeyan, Darwin, Geelong, Gold Coast-Tweed, Hobart, Launceston, Melbourne, Newcastle, Perth, Sunshine Coast, Sydney, Toowoomba, Townsville and Wollongong.



projects (which had initially been approved for \$500 000), and one recipient declined the offer (to the value of \$300 000). The successful projects were announced over the period 4 April to 18 May 2012. As at end April 2013, agreements had been signed for 22 projects and were still being negotiated for two projects. A summary of the projects approved for LCP funding is provided at Appendix 2.

## Relevant audits and reviews

**1.9** Previous ANAO audits of grant programs within the former Infrastructure, Transport, Regional Development and Local Government portfolio had identified shortcomings with program administration and the transparency of the decision-making process for the selection of projects.

**1.10** An example was the audit of the Infrastructure Employment Projects (IEP) stream of the Jobs Fund, which was tabled in September 2011.<sup>21</sup> Key findings included shortcomings in assessing candidate construction projects, which meant that the IEP stream did not achieve the program's economic stimulus objectives in the anticipated timeframe. The Joint Committee of Public Accounts and Audit (JCPAA) undertook a review of the audit report on the IEP stream, having previously considered audit reports of some earlier grant programs administered by the former Department of Infrastructure, Transport, Regional Development and Local Government. In its report, the JCPAA recommended that 'the fullest scrutiny is applied to the Department to ensure the substantial infrastructure budget is being used to benefit areas most in need'.<sup>22</sup> The JCPAA further commented that:

In its appearance before the Committee, the Department of Infrastructure and Transport provided some indication that the Department was working to implement sound governance structures, with the development of a 'program management toolkit and training package'. However, the lack of acknowledgement of the problems found in this audit and the subsequent provision of incomplete responses to questions on notice provided little reassurance that adequate steps have been taken to ensure there would not be a repeat of identified problems with future programs.

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21 Audit Report No.7 2011–12, *Establishment, Implementation and Administration of the Infrastructure Employment Projects Stream of the Jobs Fund*, Canberra, 22 September 2011.

22 Joint Committee of Public Accounts and Audit, *Report 430: Review of Auditor-General's Reports Nos.47 (2010–11) to 9 (2011–12) and Reports Nos.10 to 23 (2011–12)*, Canberra, May 2012, p. 38.

As such, the Committee has recommended that the ANAO include the Department of Infrastructure and Transport in an audit that is currently underway into 'Agencies Implementation of Audit Recommendations'. The Committee will be looking closely at the results of this audit and any other relevant reports released in the meantime to assess Infrastructure's progress.<sup>23</sup>

**1.11** The Auditor-General accepted this recommendation. The audit examined the governance arrangements in place in Infrastructure and three other agencies to monitor the implementation of recommendations made in six selected audits, and specifically included Infrastructure's progress towards implementing the agreed recommendations of Audit Report No.31 of 2009–10, *Management of the AusLink Roads to Recovery Program*. ANAO Audit Report No.53 of 2012–13, *Agencies' Implementation of Performance Audit Recommendations*, was tabled on 25 June 2013.

## Audit objective, criteria and scope

**1.12** The objective of the audit was to assess the effectiveness of the design<sup>24</sup> and implementation of the LCP, including the assessment and approval of applications. The audit examined whether the:

- design, implementation and administration of the program reflected lessons learned from previous audits and the requirements of the Commonwealth's grants administration framework;
- business practices of the department met policy and legislative requirements, as well as accountability responsibilities;
- assessment of applications and the selection of funding recipients was undertaken in accordance with the published program guidelines and was consistent with the seven key principles for grants administration set out in the Commonwealth Grant Guidelines (CGGs);
- departmental advice to the grant approver was complete and in accordance with the CGGs; and
- funding agreements, project agreements and program monitoring arrangements were appropriate for effective ongoing management.

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23 Joint Committee of Public Accounts and Audit, *Report 430*, op. cit., p. viii.

24 The term 'design' encompasses the following stages of the program's development: identifying decision making roles and responsibilities; determining how potential funding recipients will access the program; and developing program guidelines and procedures.

**1.13** The audit covered the key program elements of LCP, from the planning phase of the program through to the finalisation of agreements with successful applicants. The audit methodology included:

- examining departmental records on the design and implementation of the program, including: the program planning and review documents; applications received, Infrastructure’s assessment of applications and feedback provided to unsuccessful applicants; and advice provided to the Minister and the records of his decisions as funding approver;
- examining the approaches adopted by the department for delivering the program against relevant findings and recommendations from JCPAA reviews and previous ANAO audits; and
- discussions with relevant departmental staff.

**1.14** The audit was conducted in accordance with ANAO auditing standards at a cost to the ANAO of \$279 000.

## Report structure

**1.15** The structure of the report is outlined in Table 1.1.

**Table 1.1: Structure of the report**

Chapter title	Chapter overview
2. Program Governance Framework	Examines the program governance framework established by Infrastructure, including in the context of shortcomings identified in respect to earlier programs.
3. Access to the Program	Examines the process for submitting applications and Infrastructure’s assessment of applications against the eligibility criteria.
4. Assessment of Eligible Applications	Examines Infrastructure’s assessment and ranking of eligible applications.
5. Advice to the Minister, and Funding Decisions	Examines the advice provided to the Minister, as decision-maker, and the funding decisions that were then taken.
6. Grant Reporting, Funding Distribution and Feedback to Applicants	Provides an overview of the announcement and reporting of funding outcomes, the distribution of funding and the provision of feedback to applicants.
7. Project and Program Delivery, and Evaluation	Provides an overview of the development of agreements with the successful applicants and of the proposed arrangements for monitoring and evaluating program outcomes.

## 2. Program Governance Framework

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*This chapter examines the program governance framework established by Infrastructure, including in the context of shortcomings identified in respect to earlier programs.*

### Introduction

**2.1** With respect to the principles of governance and accountability, the CCGs emphasize that agencies should develop such policies, procedures and guidelines as are necessary for the sound administration of grants.<sup>25</sup> In the case of programs like LCP, this should include program guidelines and associated operational guidance for the administration of the program.

**2.2** In this context, the ANAO examined the:

- LCP guidelines and supplementary documentation; and
- LCP governance framework, including in the context of Infrastructure's program management framework.

### LCP guidelines and supplementary documents

**2.3** Grant program guidelines play a central role in the conduct of effective, efficient and accountable grants administration. Reflecting their importance, the guidelines for each program represent one of the policy requirements that proposed grants must be consistent with in order to be approved for funding in accordance with Regulation 9 of the *Financial Management and Accountability Regulations 1997* (FMA Regulation 9).<sup>26</sup> In addition, since December 2007, the grants administration framework has required that guidelines be developed for all new grant programs and that Ministers not approve a proposed grant

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25 Department of Finance and Deregulation, *Commonwealth Grant Guidelines—Policies and Principles for Grants Administration* ('CGGs'), Financial Management Guidance No. 23, Canberra, July 2009, p. 21. All references in this audit report to the CCGs are to the first edition, which took effect from 1 July 2009. The second edition took effect from 1 June 2013, which is after the LCP funding round was held.

26 The principle obligation applying to the approval of all spending proposals is set out in FMA Regulation 9, which requires an approver to make reasonable inquiries in order to be satisfied that a proposal would be a proper use of Commonwealth resources and would not be inconsistent with the policies of the Commonwealth. For grant spending proposals, the relevant policies include the CCGs and the specific guidelines established for the program.

without obtaining the benefits of agency advice on the merits of the proposal relative to the program guidelines.<sup>27</sup>

## **Development and approval of the LCP guidelines**

**2.4** In accordance with the requirements for the approval of grant guidelines, Infrastructure conducted a risk analysis of the proposed program and consulted with the Department of Finance and Deregulation (Finance) and the Department of Prime Minister and Cabinet. Infrastructure assessed the program as representing a low risk on the grounds that adequate controls could be put in place to manage the risks identified.

**2.5** Under the grants administration framework, where a grant program has been assessed as being low risk, the Minister may approve those guidelines and the Finance Minister is to be informed of that decision prior to the public release of the guidelines. Where a program is assessed as being medium risk, however, the Finance Minister is responsible for agreeing to the public release of the guidelines. After the Minister approved the guidelines on 7 July 2011, the Finance Minister reviewed the LCP guidelines and, while agreeing to their public release, indicated her assessment of the program's risk as being medium.<sup>28</sup>

**2.6** Infrastructure advised its Minister of the Finance Minister's determination and also submitted amended guidelines for his consideration. The Minister approved the amended guidelines on 23 September 2011.

**2.7** Infrastructure's records indicate that advice was sought from Finance about whether the amendments to the guidelines required further approval by the Finance Minister. The advice received was that minor or 'administrative' changes did not require further approval. Based on this advice, the department did not refer the amended guidelines back to the Finance Minister for consideration after the Minister for Infrastructure had approved them on 23 September 2011. The guidelines were released publicly on 20 October 2011.

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27 See Chapter 5 for an examination of the advice provided to the Minister by Infrastructure and the Minister's funding decisions.

28 The Finance Minister also noted some concerns or 'risks', primarily around managing stakeholder expectations, ensuring that applicants are aware that funding for planning does not imply a commitment to fund further project stages, and ensuring projects are completed within the program timeframe. See paragraphs 2.42 to 2.48 for a discussion of these risks.

## **Contents of the released guidelines**

**2.8** In the main, the content of the LCP guidelines accorded with the guidance in the CCGs. The LCP guidelines provided minimal, but important, detail outlining the program objective, governance arrangements, the project approval process and monitoring, reporting and evaluation arrangements, program operational arrangements and the complaints handling mechanism. Importantly, the LCP guidelines also:

- identified and grouped the eligibility and assessment criteria;
- identified the maximum funding amounts available under the two funding streams; and
- specified the process and due date for lodging applications and stated that applications which were late or not in the correct form would not be accepted.

**2.9** The guidelines did not, however, expressly state that the LCP was a grant program or that the recipients were to be selected through a competitive merit-based selection process.

## **Supplementary documents**

### *Frequently asked questions*

**2.10** While the LCP guidelines did not refer an applicant to any other documentation to supplement or support the guidelines, Infrastructure provided a regularly updated frequently asked questions (FAQs) document on its website. The FAQs elaborated upon the guidelines to the extent they expressly state that:

- applicants who did not meet all the eligibility criteria would be excluded;
- the lead applicant of a consortia had to be an eligible applicant;
- assets arising from the projects were to be retained for a period of five years;
- applicants must submit a complete application; and

- with respect to in-kind contributions, an applicant must demonstrate that additional resources were being contributed to the project rather than 'business as usual' costs.<sup>29</sup>

### *LCP application form*

**2.11** The application form generally complied with the LCP guidelines. It required applicants to make a statement of claims against each assessment criterion. It also elaborated on the LCP guidelines by identifying in greater detail the types of projects that Infrastructure was seeking to fund and the supporting information to be attached to an application. Limits were placed on the amount of information that could be provided. This helped balance the need to obtain sufficient information for Infrastructure to reach an informed assessment of the merits of each application, with the need to ensure that the process was not unduly onerous on applicants.

**2.12** The requirements for stream one (planning and design) applications were commensurate with the scale, nature, complexity and risks involved in the granting activity. However, the assessment of stream two (demonstration) applications would have benefited from having more prescriptive requirements in terms of the project budget, cost estimates and additional information required. The additional information required for stream two applications was loosely described in the application form as:

Sufficient information to allow an assessment to be made of the viability of the project and the capability of the applicant and its partners to deliver the project and manage it on an ongoing basis. This might include financial information, market or other research, and experience with similar projects.

**2.13** For some stream two applications Infrastructure did not collect adequate, reliable information on which to make an informed assessment of the viability and/or deliverability of the construction project. This was particularly evident in the findings of the construction viability assessments undertaken of high ranking stream two applications. In particular, some projects were assessed as involving high risks because no cost estimates had been provided to support the amount of funding requested or to use as the

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<sup>29</sup> In July 2011, Infrastructure had identified that one of four 'key risks' of LCP was being able to ensure value for money with in-kind contributions, this included consideration of the types of in-kind contributions that might be expected, and how they would be assessed and realised.



basis for assessing construction viability. In two cases, the applications were reassessed as being ineligible on this basis.<sup>30</sup>

## Financial frameworks applying to the program

**2.14** It is essential that agencies determine the character of the financial arrangements they employ, so as to comply with the relevant framework (that is, with the applicable policy, process and legal requirements). The 7 July 2011 version of the draft guidelines was based on the understanding that all LCP payments would be grants and that, therefore, the grants policy framework would apply. Infrastructure then sought advice in this regard from Finance. Finance advice of August 2011 was that, in respect to successful state/territory government applicants:

we are of the opinion that this program should be classified as a Payment to the States and come under the Treasury coordinated IGA on Federal Financial Relations.

**2.15** The draft guidelines were amended to reflect the Finance advice. The effect was that, up to the point of approving funding, the LCP arrangements had to be compliant with the grants policy framework. The framework that then applied to govern the funding approved depended on whether the successful application was submitted by a state/territory government or by a local government.

**2.16** Where LCP funding was awarded to a local government, the grants policy framework continued to apply. This framework includes, amongst other things, the grants reporting requirements mandated in the CCGs and the additional requirement to record the basis of a grant approval as mandated in FMA Regulation 12(2). Recipients enter into grant agreements with the Commonwealth and the administering agency (in this case, Infrastructure) is responsible for making and reporting the payments in its financial statements.

**2.17** In contrast, the provision of LCP funding to a state or territory government agency is classified as a payment made for the purposes of the *Federal Financial Relations Act 2009* (FFR Act). Under FMA Regulation 3A(2), such a payment is explicitly excluded from the coverage of the grants policy framework. Recipients enter into national partnership agreements that are subject to the provisions of the Intergovernmental Agreement on Federal

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30 See further at paragraph 4.54.



Financial Relations (IGA FFR).<sup>31</sup> Payments are made centrally by Treasury and reported in Budget Paper No.3, Australia's Federal Relations.

**2.18** Outside of the LCP context, the JCPAA stated in November 2011 in Report No. 427, *Inquiry into National Funding Agreements*, that it shared the concerns of the Auditor-General regarding the interaction between the IGA FFR and the enhanced framework for the administration of grant programs. It recommended that Finance examine the interaction between the new grants framework and grant payments delivered under the FFR framework, and proposed options to remove inconsistencies and improve governance arrangements for all grants provided to states and territories.<sup>32</sup> The Government's response of August 2012 to the report indicated that the application of the FFR framework should not result in situations where some of the funding awarded under a grant program is delivered through funding agreements with other funding administered through a national partnership agreement. Specifically, the JCPAA was advised that:

Where States obtain Commonwealth grant funding through programs that are not covered by the IGA FFR, for example, through competitive or targeted grant processes, it is appropriate that they are subject to the same accountability requirements as other grant recipients. While this may result in different accountability requirements for the States depending on whether funding is received through the IGA FFR process or from grant programs covered by the CGGs, this appropriately reflects the different nature of program funding and the level of autonomy and discretion involved.<sup>33</sup>

**2.19** Similar to the situation ANAO has observed in other grant programs where funding has been awarded to both local government and state government entities, the classification of LCP payments led to complex and inconsistent administrative arrangements. Specifically, funding awarded to state/territory governments was subject to different accountability and governance requirements than that awarded to local governments under the same competitive grant program. The implications of differing accountability requirements on documenting decision making is discussed at paragraph 5.28,

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31 The IGA FFR implements a framework for federal financial relations (FFR) between the Commonwealth and state and territory governments; the agreement came into effect on 1 January 2009.

32 Joint Committee of Public Accounts and Audit, Report 427, *Inquiry into National Funding Agreements*, Canberra, November 2011, p. 23.

33 Australian Government, *Australian Government Response to the Joint Committee of Public Accounts and Audit Report No. 427 Inquiry into National Funding Agreements*, Canberra, August 2012, p. 3.

and on grants accountability reporting at paragraphs 6.5 to 6.11. The implications of the different governance requirements in terms of funding arrangements are examined at paragraphs 7.4 and 7.5, and in Table 7.1.

**2.20** Finance advised ANAO in May 2013 that:

As noted in the Government's response [to JCPAA Report No. 427], following from the Heads of Treasuries Review in 2010, the Department of the Treasury developed and disseminated new guidance to Commonwealth line agencies in December 2011. In addition, the updated CGGs, which take effect from 1 June 2013, require agencies to establish and document whether a proposed activity is a grant prior to applying the Commonwealth grants policy framework. The related finance circulars provide guidance for agency staff to consider whether state and local government recipients will be treated differently, so that grant programs can be designed in a way that minimises inconsistencies.

## Program governance

**2.21** An agency's procedures for developing a grant program should include measures that require:

- undertaking initial planning processes to ensure that the design of the grant program (including procedures) underpins efficient, effective and ethical grants administration<sup>34</sup>;
- developing policies and procedures necessary for the sound administration of the grant program, such as operational guidance based on that initial process<sup>35</sup>; and
- the clear definition of roles and responsibilities of participants in the grant program to facilitate accountability.<sup>36</sup>

## Implementation of LCP under Infrastructure's program management framework

**2.22** In February 2012, Infrastructure advised the JCPAA that it had taken steps to improve its program management and delivery through the following initiatives:

- a program managers' toolkit and related staff training;

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34 CGGs, op. cit., p. 15.

35 CGGs, op. cit., p. 23.

36 *ibid.*

- a program review process, involving review-ready workshops; and
- having a dedicated team within its Major Infrastructure Projects Office to strengthen practices.<sup>37</sup>

### *The program managers' toolkit*

**2.23** Infrastructure's web portal explains that the program manager's toolkit:

Brings together resources internal and external to the department to provide staff with a central point of access to information, tools and links that can assist in the design implementation and delivery of administered funding programs.

**2.24** Accordingly, the toolkit provides an overview of particular aspects of program development in the form of factsheets and guidance about the processes to follow in order to set up a grant activity. The toolkit contains links to internal documents, such as the probity plan grants template and the program risk management user guide, and to key external documents, such as the CGGs.

### *The review-ready workshop*

**2.25** According to Infrastructure's Evaluation Resource Booklet, review-ready workshops are facilitated discussions that aim 'to help teams think through goals, needs, outcomes and success criteria for their program, policy and regulations'. In addition to the core program team, representatives from across the department participate in the workshops.

**2.26** A review-ready workshop was conducted for LCP on 23 August 2011 (that is, after the Minister had approved the initial version of the program guidelines but prior to the final version being approved). The record of the workshop states that the intention was to provide program and policy teams with an opportunity to engage in 'structured conversation about their work and to identify priorities for action before evaluation begins'.

**2.27** The participants at the LCP review-ready workshop identified a number of concerns that could impact on the success of the program, including:

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37 Mr Jagers, Committee Hansard, Canberra, 8 February 2012, pp.2, 4 and 5.

- that the short time-period allowed for organisations to identify a suitable project and develop an application created both a policy risk and an implementation risk;
- the need to manage stakeholder expectations;
- ensuring that applications were linked to the program objectives and that the selection process could stand up to scrutiny;
- maximising investment by ensuring that cost-shifting would not occur and that the Commonwealth's investment would achieve genuine additionality<sup>38</sup>;
- that front-loading the timing of funding payments achieves the need to get the money 'out the door' but leads to reduced capacity to prescribe program delivery and outcomes; and
- the need to collect appropriate information in the applications and funding agreements to assess whether the program had been successful.

**2.28** Some of the suggestions were implemented or the concerns otherwise addressed. For example, the time period for lodging an application was extended from four weeks to eight weeks. Also, the application form was modified to list some of the project success factors identified at the workshop and to seek information from applicants on how they would measure the success of their proposed projects. However, the information provided by applicants was not then used in the assessment and selection process.<sup>39</sup>

**2.29** Some suggestions were not implemented. Notably, the agreement at the workshop that some funding should be preserved to reward completion of evaluation and reporting. Instead all funds were scheduled to be paid prior to completion of the final reporting requirements (see paragraph 7.19). Further, the substantial discussions at the workshop on the policy goals, the ways to measure their success and the need to select projects that 'genuinely addressed the real policy problems that sit behind this initiative', did not result in a

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38 In respect to the principle of achieving value with public money, the CGGs note that: 'A fundamental appraisal criterion is that a grant should add value by achieving something worthwhile that would not occur without grant assistance.'

39 See further at paragraphs 4.17 and 4.18.

program design that was outcomes oriented. This is discussed in paragraphs 2.39 and 2.40 below.

### *Program implementation review process*

**2.30** Another type of review is Infrastructure's program implementation review process (PIRP). The User Guide states that PIRP is a review that focuses on:

matters most important to the implementation as a means of:

- improving consistency of delivery and governance practices; and
- offering assurance to senior management that key legislative requirements and better practice principles are being considered, and where required addressed, at the appropriate time.

**2.31** Reviews are to be undertaken at three critical review points, namely: the planning stage; the selection of projects stage; and the contracting arrangement stage. After each review, the relevant program owner receives the findings and recommendations, and determines what, if any, action should be undertaken in response.

**2.32** In August 2011, the Major Infrastructure Projects Office undertook a PIRP review of LCP at the first critical review point as a pilot of the new approach. The report of that review states that LCP was given a rating of 'green' and so was found to be 'on target'.<sup>40</sup> The report made a number of procedural recommendations, including that: the project plan be completed; a communications strategy be developed; consideration be given to developing a FAQ document to accompany the program guidelines; and further consideration be given to the information technology requirements of the program. All of these procedural recommendations were implemented.

**2.33** PIRP reviews were not, however, undertaken at critical review point two (to be done prior to funding advice to the approver) or at critical review point three (to be done prior to the commencement of contracting). In March 2013, Infrastructure advised the ANAO that, following the pilot of PIRP at critical review point one, the department:

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<sup>40</sup> Other ratings are red (there are currently mandatory legislative requirements not being met) and amber (issues raised in the review represent potential risks to the program which, if not addressed, may lead to criticism from future audits).

determined that based on the nature and size of the program adequate provisions were in place and subsequently no further PIRPs were required.

### *Other governance documents and considerations*

**2.34** In accordance with the guidance and templates contained in the program managers' toolkit, a range of governance documents were developed to assist in the planning and implementation of the program. These documents were broadly consistent with the LCP guidelines and with each other. Documents included a program plan, an appraisal plan, an implementation plan, a risk management plan, a communication strategy and a probity plan.

**2.35** Consistent with the probity plan, all relevant officers were briefed on their responsibilities in relation to probity and completed declarations of conflict of interest. The few potential conflicts of interest identified were then managed appropriately.

**2.36** Importantly, the governance documentation set out key roles and responsibilities and clearly showed the lines of accountability. Management of the day-to-day operation of LCP was the responsibility of the head of the Small National Infrastructure Projects section (SNIP), known as the 'Program Manager'. The responsibilities of the LCP team, primarily comprised of SNIP staff, and of the 'Program Owner' were similarly outlined.

**2.37** Other areas within Infrastructure provided assistance according to their areas of expertise. Consistent with its role in overseeing the National Urban Policy, the Major Cities Unit made a substantial contribution early in the program's development. The Unit also aided program implementation by assessing applications in terms of their degree of alignment with the National Urban Policy and the COAG national criteria for cities.

**2.38** In addition to undertaking the PIRP, the Major Infrastructure Projects Office assisted by reviewing the LCP guidelines to identify what might need to be supported by operational policy, as well as issues to be considered when developing the application form, funding agreement and assessment guidance. The expertise of the office was evident in the practical advice that was then provided. Some of that advice is reflected in the governance documents. However, the effectiveness of the implementation of the LCP would have been enhanced if the issues identified around the need to provide guidance to assessors so as to ensure consistency when assessing applications were addressed more fully (as discussed in Chapter 4, particularly in paragraph 4.34).

### *Achieving, measuring and evaluating outcomes*

**2.39** The CGGs outlines that grants administration should focus on the delivery of government outcomes.<sup>41</sup> Absent from the suite of LCP governance documents was a clear articulation of how Australian Government investment in the projects would generate lessons that are transferred and applied across Australia's cities so as to deliver the outcome of improved planning and design. Of particular note, the documents do not contain a strategy for ensuring that the demonstration projects are not only constructed, but that they actually 'demonstrate' to the desired audience how major cities can be more productive, sustainable and liveable. Achieving this demonstration effect is core to the success of the program.

**2.40** On 13 February 2013, Infrastructure advised ANAO that a strategy for disseminating the lessons from the LCP projects was still being developed. Coupled with this, a plan for measuring and evaluating the extent to which LCP achieves the desired policy outcomes had not yet been drafted. That is, the LCP guidelines were published, projects selected, agreements executed and one project completed, prior to strategies for achieving, measuring and evaluating the program's outcomes being finalised. This timing is not consistent with Infrastructure's own Evaluation Resource Booklet<sup>42</sup> or with guidance contained in the ANAO Better Practice Guide.<sup>43</sup> The proposed arrangements for monitoring and evaluating program outcomes are examined in paragraphs 7.52 to 7.63.

## **Risk management**

**2.41** The CGGs state that 'risk is part of the environment within which agencies operate, and risk management should be built into an agency's grants administration processes at the planning and design phase'.<sup>44</sup> Accordingly, there were a number of points throughout the planning and design of LCP at which potential risks and their treatments were identified. This is documented

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41 CGGs, op. cit., p. 16.

42 For example, Infrastructure's Evaluation Resource Booklet states that 'evaluation frameworks should be completed at the outset of initiatives'. Further, that these frameworks provide 'a good understanding of the mechanics of what is trying to be achieved and focuses thinking, discussion and actions around the desired outcomes'.

43 ANAO Better Practice Guide, *Implementing Better Practice Grants Administration*, Canberra, June 2010, pp. 42–44.

44 CGGs, op. cit., p. 15.



in many of the governance documents, as well as in the record of the review-ready workshop, email correspondence between officers, and early briefings to the Minister.

### *Risks associated with the program timeframe*

**2.42** The risks most frequently identified related to ensuring that funds would be expended in accordance with the LCP funding profile of \$10 million in each of 2011–12 and 2012–13. Likewise, to ensuring that the projects would be completed by the 30 June 2013 end date. The proposed treatments included:

- structuring the payment method to reduce the likelihood of underspends where possible;
- including consideration of the applicant's capability to deliver the project within the timeframe in the assessment and advice to the approver; and
- determining how project savings would be treated within the program.

**2.43** The likelihood that these risks would eventuate increased as the time available to put the arrangements in place decreased. The decreasing time periods are evident from a comparison of the timelines contained in the draft versions of the LCP guidelines with those presented in the published version. These anticipated timelines, and the actual timeline achieved, are presented in Table 2.1.

**Table 2.1: Comparison of anticipated and actual timelines**

	As per draft guidelines approved 7 July 2011	As per draft guidelines approved 23 Sept 2011	As per guidelines released 20 Oct 2011	Actual timeframe achieved
Applications open	1 Sept 2011	19 Sept 2011	20 Oct 2011	20 Oct 2011
Applications close	30 Sept 2011	15 Nov 2011	15 Dec 2011	15 Dec 2011
Departmental assessment	Oct 2011	Mid Nov 2011 to mid Dec 2011	Mid Dec 2011 to Feb 2012	16 Dec 2011 to 20 Feb 2012
Ministerial decision	Nov 2011 to Dec 2011	Late Dec 2011 to early Jan 2012	March 2012	2 April 2012
Funding arrangements finalised	Jan 2012 to March 2012	Jan 2012 to Feb 2012	March 2012 to April 2012	From 12 June 2012 (ongoing as at the end of April 2013)
Liveable Cities Program funding expires	30 June 2013	30 June 2013	30 June 2013	30 June 2014

Source: ANAO analysis of Infrastructure records.



**2.44** According to the published guidelines, Infrastructure aimed to have all funding arrangements finalised by the end of April 2012. The timeline implied that the full \$10 million 2011–12 appropriation would then be expended in the last quarter. This would have necessitated making payments averaging 50 per cent of the grant value at or near project commencement. Given the nature of the program and the projects, such an approach would not have been consistent with the obligation to make proper use of Commonwealth resources. It eventuated that no payments were made, and only two agreements were finalised, in 2011–12 (see paragraph 7.7 for more information).

**2.45** As illustrated in Table 2.1, Infrastructure did achieve the tight timeline set out in the released guidelines to receive and assess applications and provide advice to the Ministerial decision-maker. However, the Minister's decision was made a month later than anticipated. The potential impact of this slippage was considered, as evidenced by the following addition to the risk management plan in May 2012:

There is a risk that slippage in project approval causes contractual delays, 2011–12 expenditure slippage, and ultimately failure to spend 2011–12 appropriation.

**2.46** Proposed treatments for the additional risk included ensuring 'requests for movement of funds into the 2012–13 financial year accurately and realistically reflect the projects' status' and are 'requested as early as possible to maximise likelihood of success'. However, a movement of funds was not requested until 19 June 2012. The request was approved by the Acting Prime Minister on 21 June 2012 and the resulting funding profile is set out in Table 2.2.

**Table 2.2: Original and amended LCP funding profile**

	2011–12	2012–13	2013–14
Original funding profile	\$10 million	\$10 million	Nil
Amended funding profile	Nil	\$13 million	\$7 million

Source: ANAO analysis of Infrastructure records.

**2.47** A one month slippage in project approval, however, does not account for the large discrepancy between the planned and actual timeframes for finalising agreements and expending funds. According to the released program guidelines, it was anticipated that the agreements would be finalised

by the end of April 2012. Whereas, at the end of April 2013, two agreements were still to be finalised (see Figure 7.1).

### *Risks associated with managing stakeholder expectations*

**2.48** The second most common category of risk identified in Infrastructure documentation was the management of stakeholder expectations. That is, in light of the comparatively small amount of funding available and the fact that there would only be one funding round. These risks were addressed effectively, primarily through the wording used in the program guidelines and by the communication strategy employed to promote the program.

## **Conclusion**

**2.49** The LCP guidelines were sound. Importantly, they clearly identified and grouped eligibility and assessment criteria, and specified the process for lodging applications. The guidelines were also underpinned by a suite of governance documents necessary for the sound administration of the program.

**2.50** The development of the guidelines and governance documents were informed by a number of initiatives implemented by Infrastructure to improve its program management and delivery (consistent with advice that the department had provided to the JCPAA). These included guidance from the department's program managers' toolkit and Major Infrastructure Projects Office. A review-ready workshop<sup>45</sup> and a program implementation review at the planning stage of LCP, were also undertaken. However, some valuable suggestions made at the workshop were not implemented and the program implementation review was only undertaken at one of the three critical review points.

**2.51** Further, while the program managers' toolkit promoted the importance of program monitoring and evaluation, notably absent from the governance documents was a plan for measuring and evaluating the extent to which the LCP successfully achieved the program's outcomes. Also absent was a strategy for ensuring the LCP funding would generate lessons that would then be transferred and applied with the desired objectives of improved planning and design.

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45 A review-ready workshop is a facilitated discussion that aims to help teams think through goals, needs, outcomes and success criteria for their program, policy or regulatory activity.

## 3. Access to the Program

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*This chapter examines the process for submitting applications and Infrastructure's assessment of applications against the eligibility criteria.*

### Introduction

**3.1** Effective grants administration is supported by agencies adopting application and assessment processes that promote open, transparent and equitable access to grants.<sup>46</sup> It is also recognised as good practice for agencies to design a grant application process that is cost-effective, accessible and likely to maximise the attraction and selection of high quality applications.

**3.2** In this context, the ANAO examined the:

- process for submitting LCP applications and the department's management of their receipt and registration; and
- assessment of the eligibility of applications against the published criteria.

### Application process

**3.3** The LCP funding opportunity was promoted using a deliberately 'low-key' approach so as to manage stakeholder expectations. The opening of the round was announced on 20 October 2011 as part of a media statement on the release of the *State of Australian Cities 2011* report. The LCP guidelines were also published on Infrastructure's website on 20 October 2011.

**3.4** Eligible local and state government authorities were advised in writing over the period 20 to 21 October 2011 about the LCP and how to obtain a copy of the guidelines and application form. More than 40 Land Development Agencies, Regional Organisation of Councils, Local Government Associations and other key stakeholders across Australia were also advised in writing about the LCP and that eligible applicants had been notified about the program.

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46 ANAO Better Practice Guide, op. cit., p. 43.

## **Submitting applications**

**3.5** The program guidelines and supplementary documents explained the application process. Applications were required to be submitted by email in the correct format by 5:00pm Australian Eastern Daylight Time on 15 December 2011. Infrastructure sent all eligible state/territory and local government agencies a reminder email one week prior to the close of applications.

**3.6** Departmental records indicate that applicants were able to complete and submit applications by the closing date with limited problems. Some applicants did have difficulty accessing the Excel worksheet embedded in the application form. However, these applicants were promptly emailed a copy of the worksheet upon request. The accessibility of the LCP application process was also enhanced by the evident willingness of program staff to assist potential applicants whilst still adhering to probity principles.

## **Receipt of applications**

**3.7** The LCP team set up an application receipt process whereby emails submitting applications would be acknowledged via return email. Departmental records demonstrate that this was implemented effectively. Another process that was both documented and implemented involved moving the email attachments into a well-structured electronic folder that was created for each application. This addressed the risk of documents being overlooked or misplaced.

**3.8** The registration process included recording the name of the applicant, the time and date of submission, and other details into an Excel spreadsheet. Each application was assigned a reference number, which included a signifier that distinguished between stream one and stream two projects. On the three occasions where a single submission sought funding under both streams, the submission was allocated two reference numbers and so was counted as being two applications.

**3.9** Infrastructure received 170 applications, requesting \$141 million in total funding, from 108 applicants. Of these:

- 97 applications indicated they related to stream one (48 single applications and 49 applications with partners); and
- 73 applications indicated they related to stream two (34 single applications and 39 applications with partners).

**3.10** According to the registration spreadsheet, 159 (94 per cent) of the applications were received on 15 December 2011. It is not unusual for a large proportion of applications to be submitted on the closing date, which emphasises the need to have systems and resources in place to manage such an occurrence.

**3.11** The LCP guidelines stated that applications received after the closing time would not be accepted. Two of the applications were received late: one a minute after the closing time and the other 25 minutes after. The program owner's decision to accept both of these applications was documented and, in context, was consistent with probity principles.

## Eligibility assessment

### The eligibility criteria

**3.12** As noted in the ANAO Better Practice Guide, and reflected in the CCGs, it is important that program guidelines identify any threshold requirements that must be satisfied for an application to be considered for funding. Well constructed threshold or eligibility criteria are straightforward, easily understood and effectively communicated to potential applicants, with the relevant program's published guidelines clearly stating that applications that do not satisfy all eligibility criteria will not be considered.<sup>47</sup>

**3.13** Eligibility criteria for LCP were set out in section 2 of the LCP guidelines, with some additional requirements for each stream set out in sections 3 (for stream one projects) and 4 (for stream two projects). The LCP application form supported applicants in being made aware of the main eligibility requirements through the provision of a checklist at the end of the application form. As did the FAQs, which elaborated upon some of the eligibility requirements in the LCP guidelines (see paragraph 2.10).

#### *Eligible projects*

**3.14** Eligible projects under the guidelines fell within two streams: stream one for funding of planning and design projects to a total of \$500 000; and stream two for funding of demonstration projects to a total of \$4 million. The funding contributed by the Australian Government was up to a maximum

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47 ANAO Better Practice Guide, op. cit., p. 63; and CCGs, op. cit., p. 20.

of 50 per cent of the total project cost. The remaining cost had to be covered by in-kind and/or cash contributions from the applicant and/or other partners.

**3.15** Applicants had to demonstrate that the Australian Government funded component of the project would be completed by 30 June 2013. The project could not have already commenced, or consist solely of research work, or have been approved for—or subject to an application for—funding under another Australian Government program. The project had to be located in one of the 18 major cities that were the subject of the National Urban Policy.<sup>48</sup> The cities were those with populations in excess of 100 000 according to 2011 Australian Bureau of Statistics (ABS) data.<sup>49</sup>

#### *Eligible applicants*

**3.16** Applicants had to be a state or territory government, or be a local government operating within one of the 18 major cities. Infrastructure used the Australian Bureau of Statistics (ABS) National Regional Profile to determine the relevant local governments. The LCP guidelines released on 20 October 2011 omitted 10 local governments from its list of eligible local governments. On 28 October 2011 Infrastructure updated the published guidelines to add seven of the omitted local governments. While three were still omitted<sup>50</sup>, other departmental records indicate that Infrastructure advised all 165 eligible local governments about the funding opportunity through invitation letters and other correspondence.

#### *Consortia and sole applicants*

**3.17** An eligible organisation could lodge one application for stream one funding, and/or one application for stream two funding, as a sole applicant. Reflecting the importance of encouraging partnerships, they could also lodge as many applications as they wished where the eligible applicant was the lead member of a consortium. The other members of the consortium did not need to be eligible applicants.

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48 See footnote 20 for a list of the eligible 18 major cities.

49 The National Urban Policy identifies the 18 major cities in a figure on page 6 and states that the information was sourced from ABS catalogue 3218.0, titled 'Regional Population Growth Australia, 2011'.

50 These were Wollondilly Shire Council, Woollahra Municipal Council and Wyong Shire Council. These three Councils had been included in an earlier draft version of the guidelines (they are the last three local government authorities alphabetically in Sydney).

**3.18** In response to queries from potential applicants, Infrastructure sent an email to all state and territory governments on 15 November 2011 clarifying that each state/territory government constituted a single eligible applicant. Therefore, each state/territory government could only submit one application for stream one funding and one application for stream two funding, as a sole applicant. The email explained that the 'strict limits in the Guidelines are intended to ensure that only the highest priority projects from across the large number of eligible applicants are considered for funding from within the \$20m envelope.'<sup>51</sup>

## **Eligibility assessment**

**3.19** SNIP was responsible for conducting the eligibility assessment of applications. Internal departmental documentation states that the eligibility assessment was to be undertaken using a two-page checklist. The checklist detailed the eligibility requirements from the LCP guidelines. The checklist did not, however, explicitly direct assessors to check if the application was complete or if proposed in-kind contributions were eligible.<sup>52</sup>

**3.20** The checklist contained a field for recording whether the application had been assessed as eligible or ineligible, and a field for recording that the findings had been checked by the assessment team leader. Where an application was assessed as ineligible, or concerns about eligibility were identified, the internal guidance stated that the application was to be referred to the Program Manager for review.

**3.21** Eligibility checklists were not available for seven of the 170 applications received, and were incomplete for a further five applications. Infrastructure advised ANAO that a checklist had not been completed for one of these applications because it had been withdrawn by the proponent based on advice from the department that they had submitted more than the allowable number as a sole applicant.<sup>53</sup> The department further advised ANAO that the rest of the

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51 As insight into those priorities, 25 of the 26 applications submitted by state/territory governments were for projects based in a capital city.

52 These relate to requirements identified in the FAQ document, see paragraph 2.10.

53 As previously noted in paragraph 3.17, the LCP guidelines only allow applicants to submit one application under each funding stream as a sole applicant. Where more applications were received from a sole applicant, the Program Manager was responsible for ensuring that the applicant identified their priority application under each stream prior to assessment, with the remaining applications being ineligible.



applications ‘were put through a thorough assessment process and given the same consideration as all of the other eligible applications’.

**3.22** ANAO analysis of the 163 eligibility checklists on file identified that assessors had not recorded a final decision about eligibility on 65 checklists (40 per cent). Further, only one checklist was signed off as having being checked by the assessment team leader.

**3.23** The assessors had recorded possible eligibility concerns that required follow-up on 50 of the 163 checklists (31 per cent). These ranged from concerns that projects would not be completed by 30 June 2013, were not ready to proceed, or had already commenced, through to applications being submitted in the incorrect format. Of the checklists where an eligibility concern was identified, only five of these also recorded how the issues were subsequently resolved; two at a later stage in the assessment process and none by the Program Manager.<sup>54</sup> Other information on file indicates the concerns identified in checklists were followed-up and addressed in relation to a further two applications. Therefore, there were 43 applications for which eligibility concerns were recorded, but the subsequent resolution of those concerns and decision to declare them eligible was not recorded. This situation is not consistent with sound grants administration practices.

**3.24** Infrastructure’s response to questions from the ANAO as to the reason for the shortcomings outlined above included that ‘all projects deemed to be ineligible were considered by the Program Manager’, and that:

The eligibility checklist process was put in place to identify any applications that didn’t meet one or all of the criteria. However, given the unexpected large number of applications that were received and that met eligibility requirements, the eligibility checklist process was truncated.

**3.25** A risk of not recording eligibility decisions, or of otherwise truncating the checking process, is that non-compliant applications may proceed to assessment stage. In the interests of probity and fairness, it is expected that non-compliant applications would be clearly identified as ineligible and excluded from further consideration.

**3.26** In its advice to ANAO, Infrastructure also commented that ‘any subsequent eligibility issues would have been identified during the broader

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54 These five projects were finally assessed as ineligible.



assessment process'. The potential consequences of such an approach are illustrated by the department's handling of one of the stream two applications. The application clearly explained that some of the activities for which LCP funding was sought were being partially funded under another Australian Government program. This should have rendered the application ineligible.<sup>55</sup> However, this was not identified at any stage in the assessment process and the application was recommended for funding to the Minister. Funding an ineligible application would not have represented an efficient, effective, economical and ethical use of public money that is consistent with the policies of the Commonwealth. It eventuated that the application was not approved because the Minister considered that other projects had a stronger call on program funds.

### **Eligibility assessment outcome**

**3.27** Of the 170 applications received, seven (four per cent) were ultimately assessed as ineligible for LCP funding. Four were determined to be ineligible at the initial checking stage. One of these for requesting a funding amount that exceeded 50 per cent of the total project cost. The three others were ineligible on the basis that they exceeded the number of applications that could be submitted under a single stream by a sole applicant.

**3.28** A further three applications were initially considered eligible but were later reassessed as ineligible during the merit-assessment stage. For one of these applications, the assessor identified that the budget included expenditure of LCP funds in 2013–14. The merit-assessment process ceased and the application was reassessed as ineligible on the basis that the Australian Government funded component would not be completed by 30 June 2013.

**3.29** The other two applications reassessed were demonstration projects that performed strongly against the assessment criteria and so then underwent a construction viability assessment (CVA). Infrastructure's advice to its Minister (and noted on the eligibility checklists) was that both applications were reassessed as ineligible based on 'advice from CVA consultant that there was

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55 The LCP guidelines stated 'Funding will not be provided to projects that ... Have been approved for funding, or are in the application process for funding, from another Australian Government program'. Inclusion of this requirement is consistent with sound grant administration and value for money principles.

not enough detail or evidence in the application to demonstrate that the project could be delivered for the stated costs or in the program timeline'.<sup>56</sup>

## Conclusion

**3.30** The grant application process was accessible to eligible applicants. The process for applying for LCP funding was effectively communicated to potential applicants through the guidelines and supplementary documentation. This was further supported by Infrastructure sending information and reminders directly to eligible organisations, and responding promptly to queries.

**3.31** There were 170 applications received and these were assessed against the eligibility criteria as published in the LCP guidelines. Four applications were assessed as ineligible during the initial eligibility check. A further three applications were reassessed as ineligible during the subsequent merit-assessment stage. Therefore, 96 per cent of applications were assessed as eligible.

**3.32** However, there were shortcomings with Infrastructure's implementation of its eligibility checking process. Assessors were to complete an eligibility checklist for each application. ANAO analysis of the available eligibility checklists—Infrastructure was unable to locate checklists for six applications—found that assessors had not recorded whether the application was eligible or ineligible on 40 per cent of these. Only one had been signed off as having being checked by the assessment team leader. Further, there were 43 applications for which eligibility concerns requiring follow-up were recorded, but the subsequent resolution of those concerns and decision to declare them eligible was not recorded.

**3.33** Infrastructure advised ANAO that 'given the unexpected large number of applications that were received and that met eligibility requirements, the eligibility checklist process was truncated.' A risk with such an approach is that non-compliant applications may proceed to merit-assessment stage. In the interests of probity and fairness, it is expected that non-compliant applications would be clearly identified as ineligible and excluded from further consideration. The truncation of eligibility checking is an issue raised in earlier

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<sup>56</sup> See further at paragraph 4.54.

ANAO performance audits.<sup>57</sup> While the shortcomings identified with respect to LCP do not appear to have affected the funding outcome, these risks could be realised under future grant programs if the department does not adopt more robust eligibility checking processes.

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<sup>57</sup> See, for example, 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*, Canberra, 27 July 2010.

## 4. Assessment of Eligible Applications

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*This chapter examines Infrastructure's assessment and ranking of eligible applications.*

### Introduction

**4.1** The objective of assessing applications is to select those that best represent value for public money in the context of the desired objectives and outcomes of the grant program. An appropriately conducted competitive, merit-based grant selection process involves all eligible, compliant applications being assessed in the same manner against the same criteria. Based upon the outcome of those assessments the applications are ranked in priority order for receipt of the available funding. This advice is then provided to the decision-maker for his or her consideration.<sup>58</sup>

**4.2** According to the LCP guidelines, Infrastructure was to assess all applications against the applicable assessment criteria. For high-ranking stream two projects, the department also chose to consider construction viability risks. The department would then provide advice to the Ministerial decision-maker, although the guidelines did not clearly state how projects would be selected for recommendation to the Minister. In this respect, Infrastructure adopted a competitive merit-based selection process, based on the assessment criteria, consistent with the preference expressed in the CCGs.

**4.3** ANAO examined Infrastructure's assessment and ranking of eligible applications, applying the assessment criteria outlined in the published program guidelines.

### Assessment criteria

**4.4** Assessment criteria are the criteria against which all eligible, compliant proposals will be assessed in order to determine their merits against the program objectives and, for competitive programs, other competing applications.<sup>59</sup> There were eight assessment criteria set out in the LCP guidelines, of which five were 'core' criteria applicable to all eligible applications. The five core criteria are presented in Table 4.1.

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58 ANAO Better Practice Guide, op. cit., p. 75.

59 ANAO Better Practice Guide, op. cit., p. 60.

**Table 4.1: Core assessment criteria applicable to all LCP applications**

Criterion	Description
1. Policy compliance	Extent to which the project will meet and deliver on one or more of the goals of productivity, sustainability and liveability within the National Urban Policy and/or the COAG national criteria for cities.
2. Partnerships in planning and delivery	The extent to which the project is a collaborative effort between levels of government or across local government boundaries, and the extent of involvement/support of stakeholders, local communities, and other interested parties (for example, universities).
3. Strategic alignment	Extent to which the project aligns with state, regional, local and/or precinct plans for the city.
4. Deliverability	Capacity of applicants to deliver the Australian Government funded component of the project within the life of the Liveable Cities Program (ending 30 June 2013), including confirmed partner funding arrangements, risk assessment of the project undertaken and mitigation measures in place and, where applicable, planning and development approvals in place (or will be in place before the funding arrangements are finalised). In the case of stream one (planning and design) projects, the extent to which the proponent has committed to implement the outcomes of the planning project.
5. Funding	The extent to which projects have partner funding contributions.

Source: Liveable Cities Program Guidelines, 2011.

**4.5** The other three assessment criteria were only applicable to stream two applications. The criteria corresponded directly with the three goals of the National Urban Policy and are presented in Table 4.2.

**Table 4.2: Additional assessment criteria applicable to stream two (demonstration) applications**

Criterion	Description
6. Liveability	Extent to which the project will enhance the liveability of the city, including the long term benefits and outcomes generated by the project.
7. Sustainability	The extent to which the project will enhance the sustainability of the city's natural and built environment.
8. Productivity	The extent to which the project harnesses the productivity of people and industry, and where possible demonstrated through a benefit cost ratio analysis.

Source: Liveable Cities Program Guidelines, 2011.

**4.6** Overall, the assessment criteria reflected the program's design, in that they were directed at identifying projects with the attributes the Australian Government was seeking to promote so as to improve the planning and design of major cities. The explicit inclusion of the COAG national criteria for cities in criterion 1 was consistent with the Australian Government's 2009 commitment

to link future infrastructure funding decisions to meeting these national criteria.<sup>60</sup> Similarly, the inclusion of the goals from the National Urban Policy was consistent with the Australian Government's 2011 commitment to the principles and objectives underpinning those goals for all future activities and investments which impact on major cities.<sup>61</sup> The addition of criterion 4 helped ensure that the projects with the desired attributes could actually be delivered within the LCP timeframe.

**4.7** Unlike many other grant programs that involve co-funding arrangements, the LCP assessment criteria did not include consideration of the extent of the applicant's own contributions to the project. The applicant contributions proposed ranged from zero to 88 per cent of the project cost.<sup>62</sup> In this regard in March 2013, Infrastructure advised ANAO that:

Section 2.2 of the Program Guidelines clearly states that the Australian Government will contribute a maximum of 50% of the project cost. This factor was the basic requirement for proponents and the assessors under the funding contribution and the proportion of funding provided by proponents was not a selection criterion.

## Rating process

**4.8** It is important that the assessment process provides for applications to be rated consistently against the published assessment criteria and for the results to effectively and consistently differentiate between competing applications of varying merit. To this end, as noted in ANAO's Better Practice Guide, numerical rating scales have the advantage of being able to differentiate quite effectively between individual applications and classes of applications. In comparison, qualitative ordinal scales (such as high/medium/low) make it inherently more difficult to arrive at an overall rating for each application.<sup>63</sup>

**4.9** Infrastructure established a numerical rating scale for the assessment of LCP applications. Applications were to be rated on a scale of zero to five

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60 COAG Meeting Communique, 7 December 2009, p. 8.

61 Commonwealth of Australia, *Our Cities, Our Future—A national urban policy for a productive, sustainable and liveable future*, May 2011, p. 21.

62 It eventuated that for the cohort of applications wherein the applicant itself contributed: exactly half the project costs had a success rate of zero; less than half the project costs had a success rate of 31 per cent; and more than half the project costs had a success rate of 11 per cent.

63 See ANAO Better Practice Guide, op. cit., pp. 75–76, for a discussion of the methods and scales that may be applied to the rating and ranking of grant applications.

against each applicable assessment criterion. A scoring guide was provided to assessors and is reproduced in Figure 4.1.

**Figure 4.1: Appraisal scoring guide**

0	Unacceptable	Does not meet the criteria at all or attempt to
1	Very poor	Meets some criteria but unacceptable
2	Poor	Meets the criteria minimally
3	Adequate	Meets the criteria but does not exceed it
4	Good	Meets criteria and substantially exceeds it
5	Excellent	Meets criteria and demonstrates innovation and excellence

Each criteria is to be scored from 0-5. All scoring is to be in whole numbers only. This means that Stream 1 projects will be a score out of 25 and Stream 2 will be a score of 40. Scoring will be recorded in the Scoring spreadsheet by the SNIP team.

Source: Infrastructure documentation, *Appraisal Guidance*.

**4.10** The scores awarded against each criterion were to be added to produce an overall score for each application without any weighting or other adjustment being made. As explained in Figure 4.1, this would produce an overall score out of 25 for stream one applications (given there were five applicable criteria) and out of 40 for stream two applications (given there were eight applicable criteria). The overall score was then used as the basis for ranking applications in order of merit (see the section on ‘project ranking and selection’ from paragraph 4.57 below).

**4.11** For scores to be relied upon in this way it is important that the underlying scoring methodology be sound, and be transparently and consistently applied. Therefore, ANAO examined the guidance provided to assessors and quality assurance processes used, as these reflect the scoring methodology and are aids to transparency and consistency. ANAO also examined the assessment findings for each application to assess the extent to which the desired transparency and consistency was achieved.

## Assessment roles and responsibilities

### Use of advisory panels

**4.12** It is relatively common for expert or advisory panels to be used to provide advice and/or recommendations to grant program decision makers. Such panels can bring specific knowledge, experience and judgement to bear in formulating, or assisting to formulate, funding recommendations. For example, advisory panels can help provide assurance that those applications ranked highest on the basis of their raw scores, do in fact best represent value for public money in the context of competing applications and the desired objectives and outcomes of the granting activity.

**4.13** During the design phase of LCP, Infrastructure considered the option of establishing an advisory panel comprising representatives from the Infrastructure, Regional Australia and Environment portfolios and, potentially, external experts. Infrastructure decided that, in keeping with the scale and objectives of the program, an advisory panel or a two stage assessment process was not the most effective mechanism.

### Assessment of criteria by the Major Cities Unit

**4.14** Infrastructure's Major Cities Unit provides advice to the Australian Government on issues of policy, planning and infrastructure that have an impact on major cities. Infrastructure drew on the skills and knowledge of the Major Cities Unit staff by having them assess the applications against criterion 1, 6, 7 and 8. These criteria assessed the extent to which the project met the Council of Australian Governments' national criteria for cities and the goals of the National Urban Policy, and are set out in Table 4.2.

**4.15** SNIP retained overall responsibility for the assessment process, and it assessed applications against the other criteria. SNIP and the Major Cities Unit each developed a tool to guide their assessors and record the results.

#### *Assessment tool*

**4.16** The Major Cities Unit's assessment tool was a Microsoft Excel based spreadsheet to be completed for each application. It broke down each applicable criterion into sub-components with fields for entering the corresponding sub-scores. The spreadsheet contained guidance on the sub-scoring methodology and automatically calculated a score out of five for each criterion based on the sub-scores entered. There was a text field against each sub-component for assessor comments and a cover page for summarising the



project and the assessment findings. The tool gave assessors clear direction and minimal scope for deviation. It provided a good basis for achieving transparency and consistency in the assessment of applications against criterion 1, 6, 7 and 8.

**4.17** A deficiency with the tool, however, was that it did not accommodate an assessment of responses to item 4.6 of the application form. Item 4.6 was:

Describe the outcomes that would signify that the project has been successful. How will you know that these outcomes have been achieved? How will you measure and document desired outcomes, performance criteria and learnings, including challenges encountered and how these were overcome? (up to one page)

**4.18** This item was included in the application form as a treatment for one of the five key risks identified in the LCP implementation plan, which was that ‘Applications may not provide for the identification and promotion of lessons that can be transferred and repeated’. The application form stated that responses to Item 4.6 would be used in the assessment of criterion 1. However, there is no evidence that the responses were considered at any stage in the assessment process.

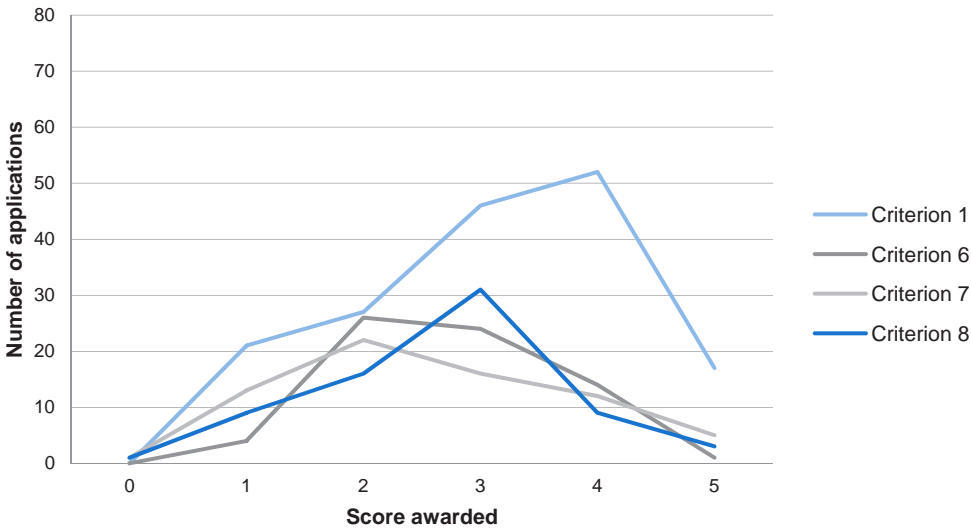
### *Quality assurance*

**4.19** Quality assurance processes help ensure that the assessment criteria and scoring methodology have been applied accurately and consistently. There is evidence recorded on 91 (55 per cent) of the completed spreadsheets that the assessor’s findings had been reviewed by another officer from the Major Cities Unit. The reviewer comments suggest that they usually agreed with the findings.

### *Assessment results*

**4.20** Examination of the completed spreadsheets indicates that applications were assessed in a consistent and transparent manner against the criteria that related to the extent to which the project met the COAG national criteria for cities and the goals of the National Urban Policy (criterion 1, 6, 7 and 8 as set out in Table 4.2). This was largely a reflection of the assessment tool used, enhanced by the recorded comments and relevant knowledge of the assessors. Therefore, the scores awarded were likely to be reliable indicators of the relative merit of competing applications against those criteria. The distribution of the scores awarded is presented in Figure 4.2.

**Figure 4.2: Distribution of scores awarded against criterion 1, 6, 7 and 8**



Source: ANAO analysis of Infrastructure data.

**4.21** The pattern of distribution reflects that criterion 6, 7 and 8 were only applicable to the 71 stream two applications that were assessed. However, the Major Cities Unit assessed all applications against these criteria. In accordance with the LCP guidelines, the outcomes were not then used to calculate the overall scores for stream one applications (nor are they reflected in Figure 4.2). Rather, as these criteria corresponded with the three goals of the National Urban Policy, the outcomes underpinned the robust and transparent assessment of applications against criterion 1 (policy).

**4.22** Criterion 1 required an assessment of applications against the COAG national criteria for cities and the three goals of the National Urban Policy. Stream one applications performed more strongly against criterion 1 than against the other applicable criteria and than stream two applications. Fifty-one per cent of stream one applications scored highly against criterion 1—defined by Infrastructure as being a score of four or five—compared with 31 per cent of stream two applications.

**4.23** Under the LCP guidelines, stream two applications were required to score highly against at least one of the three criteria that related to the three goals of the National Urban Policy (criterion 6, 7 and 8 in Table 4.2) to be considered for funding. As only 38 per cent fulfilled this requirement, it effectively reduced the pool of stream two applications to 27. Two of these

were later reassessed as ineligible<sup>64</sup>, thereby reducing the pool of stream two projects considered for funding to 25 applications.

## Assessment of criteria by program staff

**4.24** Criterion 2, 3, 4 and 5 were core criteria applicable to all LCP projects. They related to project deliverability and alignment with local and state plans, as well as the extent of stakeholder collaboration and of partner contributions (see Table 4.1). Applications were assessed against criterion 2, 3, 4 and 5 by SNIP using a Microsoft Word based ‘appraisal form’.<sup>65</sup>

**4.25** The appraisal form listed the assessment criteria and, under each, questions for the assessors to consider. These largely reflected the questions in the application form. In respect to criterion 2, replicating the questions from the application form was the extent of the guidance provided.

**4.26** For criterion 3, 4 and 5, the appraisal form contained additional questions and instructions intended to provide guidance to assessors. For example, against:

- criterion 3, ‘Have the relevant parts of the plans been identified?’;
- criterion 4, ‘What are the governance arrangements and what is their status?’; and
- criterion 5, ‘List cash and in-kind contribution. What percentage of the total?’

**4.27** However, the appraisal form did not contain benchmarks or offer other assistance on how to interpret the answers to the various questions in terms of the rating scale. That is, using the above example from criterion 5, there were no benchmarks to help assessors consistently determine the degree to which the percentage calculated satisfied criterion 5 on a scale from zero to five. Further, it was left to the discretion of individual assessors whether or not to assign sub-scores to each question and, if so, how to then calculate a final score—different assessors took different approaches in this regard. The absence of such guidance reduced the value of the appraisal form as an aid to the consistency and transparency of the assessment process.

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64 See paragraph 4.54 for information on the two applications that were reassessed as ineligible.

65 The scores awarded against criterion 1, 6, 7 and 8 by the Major Cities Unit were also copied into the appraisal form, making it the primary record of an application’s assessment.

### *Other guidance and quality assurance*

**4.28** Assessor guidance and quality assurance processes are particularly important where large numbers of assessors are involved. There were a comparatively large number of officers assessing LCP applications against criterion 2, 3, 4 and 5. While this approach meant the assessments could be completed in a shorter timeframe, it also meant that some officers had a limited opportunity to compare and contrast applications when judging relative merit. Twelve officers from, or assisting, SNIP assessed the applications. Half of these assessed fewer than seven applications each—including three who assessed only two applications each.

**4.29** Infrastructure advised the ANAO that relevant officers attended an assessment workshop involving key members of the department. Each assessor was also briefed and provided a comprehensive package of information. Further, ‘to ensure consistency, key SNIP officers also undertook regular group briefing sessions involving all assessors.’ There are also indicators that key SNIP officers provided guidance and informal quality assurance as part of their daily interactions with assessors.

**4.30** The LCP appraisal plan—which was provided to the Minister—stated that SNIP appraisal team leaders would undertake a quality assurance process on all project appraisals. However, of the completed appraisal forms, only 42 per cent contained evidence of having been quality assured. A third of these recorded that the quality assurer had amended the scores, which suggests that the process was of benefit.<sup>66</sup>

### *Completed appraisal forms*

**4.31** Despite the limitations of the appraisal form template, some degree of transparency was achieved in the completed forms through the comments inserted by assessors. While the level of detail varied, the comments generally provided adequate insight into the assessment findings. In addition, the comments indicated that assessors had considered the full extent of the material provided.

**4.32** However, a cross-comparison of the completed appraisal forms revealed shortcomings in terms of consistency. This included instances where

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<sup>66</sup> Although the amended scores were not then reflected in the order of merit lists with respect to six of the applications. This oversight does not appear to have affected the funding outcome.

different officers took different factors into account when assessing against a criterion. For example, the degree of commitment demonstrated by the applicant to implementing the outcomes of stream one projects was considered against criterion 3 on 35 per cent of the appraisal forms and against criterion 4 on the other 65 per cent.<sup>67</sup>

**4.33** Inconsistencies were also found in terms of how the scoring methodology was applied and the relative scores awarded. That is, where seemingly similar findings resulted in different scores. There were also instances where the findings suggested that one application had stronger claims against a criterion than a competing application and yet it was awarded an equal or lower score.

**4.34** In these circumstances there are questions about the reliability of the scores awarded as a basis for determining the relative merits of competing applications against criterion 2, 3, 4 and 5. Reliability could have been enhanced if, for each criterion, the assessor guidance had articulated benchmarks for the achievement of each score on the rating scale and if those benchmarks had then been consistently applied in the assessment process.

#### *Addressing eligibility issues*

**4.35** As was discussed in paragraphs 3.24 to 3.26, shortcomings existed with the eligibility checking process used for LCP resulting, in one instance, with an application being recommended for funding that was ineligible under the guidelines. Infrastructure advised ANAO in March 2013 that, while it had truncated the process, any subsequent eligibility issues would have been identified during the broader assessment process.

**4.36** In this context, during the assessment of applications against the assessment criteria, there was one application identified by an assessor as being non-compliant with a threshold requirement that was reassessed as ineligible. Two other applications were reassessed as ineligible at a later stage in the process (see paragraph 4.54) against the requirement to demonstrate that the Australian Government component would be completed by 30 June 2013.

**4.37** However, for some applications the appraisal forms indicated that other applications had also failed to demonstrate that the Australian Government component would be completed by 30 June 2013. Instead of being

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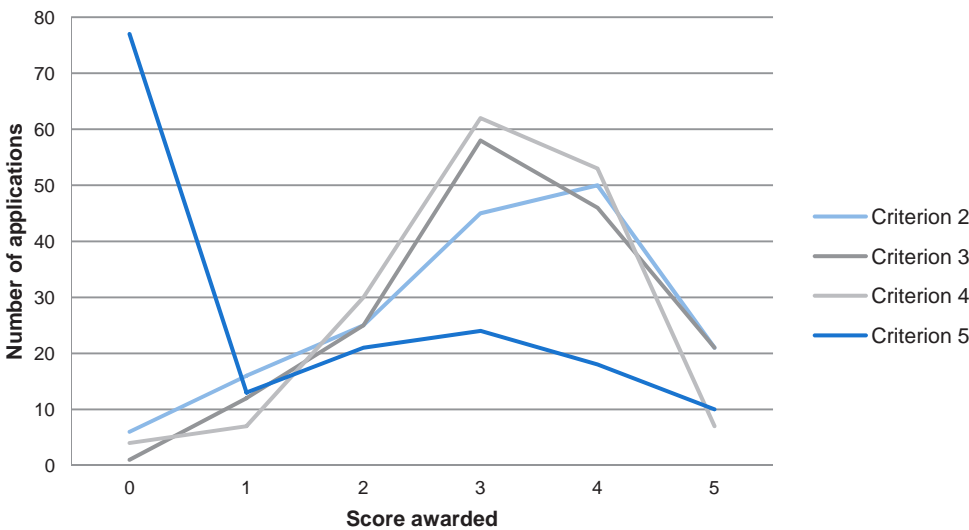
67 According to the program guidelines, this consideration was applicable to criterion 4.

reassessed as ineligible, this situation was reflected in the score awarded against criterion 4. In March 2013 Infrastructure advised the ANAO that this approach was taken because those applications ‘were not in the running for recommendation and, as planned, received little further scrutiny’.

*Assessment results*

**4.38** The distribution of scores awarded against criterion 2, 3, 4 and 5 is provided in Figure 4.3.

**Figure 4.3: Distribution of scores awarded against criterion 2, 3, 4 and 5**



Source: ANAO analysis of Infrastructure records.

**4.39** The distribution of scores awarded against criterion 5 is unusual for a grant program. For criterion 5, Infrastructure assessed the degree of cash and/or in-kind partner contributions to the project. While applicants were not required to have partners, they could only be assessed as satisfying criterion 5 if they had identified contributions from partners. Fifty-five per cent of applications were assessed by the department as being ‘unacceptable’ against criterion 5<sup>68</sup> on the basis that they had little or no contributions from partners.

68 That is, of the 165 applications assessed, 77 applications scored a zero (‘unacceptable—does not meet the criteria at all or attempt to’) and 13 applications scored a one (‘very poor—meets some criteria but unacceptable’).

However, some of these applications included significant proposed contributions from the applicant.

**4.40** Having a high proportion of applications being ‘unacceptable’ against an assessment criterion is not desirable from either the Australian Government or applicant perspective. Soundly-based assessment criteria provide an effective link between the program’s objectives and the outcomes to be achieved through the grants awarded. They play an important role in attracting 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.

**4.41** In this context, the LCP guidelines advised that projects with a high degree of partner contributions would be favourably considered.<sup>69</sup> The scoring approach indicates that Infrastructure used criterion 5 for this purpose, rather than as an assessment criterion of the form commonly understood and applied in grants administration. Accordingly, there would have been benefits in a more transparent and suitable means of assessing applications according to their degree of partner contribution having been adopted for LCP. This is particularly the case given that being allocated a low score against criterion 5 on the basis that there were little or no contributions from parties other than the applicant significantly reduced the chance of these applications being ranked highly in the merit-assessment process.<sup>70</sup>

## Assessment results

**4.42** As a cohort, state/territory government applicants achieved the highest average-score for each of the eight assessment criteria. They were followed by local governments operating in regional cities, which achieved a higher average-score than their capital city counterparts for six of the assessment criteria and an equal average-score for the other two (criterion 3 and 4).

**4.43** Only a minority of applications were assessed as having at least adequately satisfied all applicable criteria. Setting the benchmark at a score of

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69 It eventuated that applications with partner contributions had a success rate of 30 per cent compared with that of three per cent for applications without partner contributions. Further, applications involving proportionally higher contributions from partners had a higher success rate.

70 Some of these applications had scored highly against all the remaining criteria but achieving a score of zero against criterion 5 (notwithstanding that the application included a funding contribution at least equal to the LCP funding sought, and in one case more than seven times the amount of LCP funding sought) meant they were not recommended for funding.

at least three ('adequate—meets the criteria but does not exceed it'), then only 19 stream one applications adequately satisfied all applicable criteria.<sup>71</sup> This represented 20 per cent of all stream one applications submitted.

**4.44** Of the 73 stream two applications, seven (10 per cent) were:

- assessed as eligible; and
- scored at least a three against each criterion; and
- scored at least a four against one or more of criterion 6, 7 and 8.

**4.45** The large number of stream one and two applications that were scored a zero against criterion 5 impacted the above results. When criterion 5 is included in the analysis, 17 per cent of LCP applications at least adequately satisfied all applicable assessment criteria. When criterion 5 is removed from the analysis, the proportion rises to 35 per cent (but still represents a minority of the population of applications).

## Risk assessment

**4.46** Assessment of a project's suitability for funding approval should include assessing relevant risks to achieving value for money and the extent to which those risks might be able to be treated or mitigated. Accordingly, the LCP guidelines stated that Infrastructure's advice to the Minister would include its assessment of project risks.

**4.47** Infrastructure considered factors relevant to project risk in its assessment of applications against criterion 4 (deliverability). This included consideration of any risk assessments undertaken and mitigation measures put in place by applicants. According to the completed appraisal forms, a risk assessment had been undertaken for half of the 18 stream one projects, and for four of the nine stream two projects, recommended to the Minister for funding.

**4.48** The assessment against criterion 4 was largely the extent of the assessment of risks associated with stream one projects. The departmental

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<sup>71</sup> As indicated at paragraph 4.41, the scoring approach to criterion 5 significantly impacted on this situation. Specifically, there were 12 stream one applications that had scored at least three against all criteria apart from criterion 5, but were allocated a score of zero against criterion 5 because there were no partner contributions, only contributions from the applicant (ranging from being equivalent to the grant requested to an amount three times the LCP grant requested). Similarly, three stream two applications scored at least three against criterion 1 to 4 and at least a four against either criterion 6, 7 or 8, but were allocated a score of zero against criterion 5 because there were no partner contributions.



records did not indicate that Infrastructure then assessed whether the risks identified under criterion 4 could be treated and were acceptable, when considering a project's suitability for funding recommendation. For example, a stream one project that was recommended for funding had been scored a two ('poor') against criterion 4, with a third of the sub-components assessed as unacceptable, however the advice to the Minister did not identify the project risks or how the department intended to treat them.

## Construction viability assessments

**4.49** Consistent with the principle of proportionality, a more extensive assessment of risk was undertaken with respect to stream two projects. This was in the form of a construction viability assessment (CVA). According to the contract with the firm engaged to undertake the CVAs, the scope was limited to an assessment of:

- the proponent organisation's preparedness to implement the project;
- whether the planning and costings were suitable for a project of that size; and
- whether the project could be completed within the two-year life of the LCP.

**4.50** The contract explicitly excluded consideration of applicant viability from the scope of works, based on the following assumption:

Given that proponents are either local government authorities or State Government agencies, and that the relative size of the project grants is quite small, it is assumed that proponents are financially sustainable, and hence have the financial capacity to manage the project.

**4.51** Some applicants proposed that a non-government entity would actually undertake the project and own the resulting asset.<sup>72</sup> The assumption expressed in the adviser contract does not apply to these third-parties. Therefore, in such cases, a better approach would have been for Infrastructure to have obtained and assessed information on the third-parties from applicants and then assessed their viability through the CVA process.

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<sup>72</sup> Stream two applications that underwent the CVA process and were recommended for funding included two residential development projects: for one a not-for-profit entity was to undertake the activities, contribute 47 per cent of the project costs and own the asset; and for the other a not-for-profit entity was to undertake the project, contribute 13 per cent of the project costs and own the asset.

**4.52** The adviser contract provided for a two-stage process. Firstly, a short-form CVA to assess highly ranked stream two projects based on the information contained in the application. Then, following project approval, consideration would be given to undertaking a full-form CVA, addressing all risks and risk mitigation, which might involve obtaining updated information from the proponent. Infrastructure procured short-form CVAs for the 18 highest ranked projects. However, it did not procure a full-form CVA for any project.

**4.53** The short-form CVA was an initial assessment against the risk categories 'program', 'cost' and 'funding'. One or more risks could be identified within each category and each risk was rated either low, medium or high.

*CVA findings and how they were used*

**4.54** For two applications, the CVA assessor concluded that there was inadequate information on which to base an assessment and, as a consequence of this, rated each risk category as 'high'.<sup>73</sup> Based on the CVAs, the two applications were reassessed as ineligible by Infrastructure against the threshold requirement to demonstrate how the Australian Government component of the project would be completed by 30 June 2013. In March 2013 Infrastructure advised the ANAO that, while other projects did have some risks rated high by the CVA assessor, 'overall, the situation was not as stark as for the two above and the line was drawn at that point.'

**4.55** The CVA findings for the 16 applications that remained eligible were not used to inform the assessment of their merit against the criteria or to otherwise inform the selection of applications for funding recommendation.

**4.56** For each of these 16 applications, Infrastructure's advice to the Minister included actions it would take to manage the risks identified in the CVAs should the project be approved. These were to be undertaken prior to entering into an agreement with the successful applicant. The extent to which the actions were taken is examined in paragraphs 7.39 and 7.40.

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<sup>73</sup> The risk rating of 'high' is defined in the CVAs as 'requires a response from the client as to how this risk will be treated prior to confirmation of funding commitment'.

## Project ranking and selection

**4.57** An order of merit list was produced for each of the two funding streams. On the stream one merit list, all eligible applications were ranked in order of their overall scores against the assessment criteria. For stream two, only the 25 eligible applications that had scored highly against one of criterion 6, 7 or 8 were ranked for funding consideration according to their overall scores. The other stream two applications appeared at the end of the merit list, shaded out and identified as being ‘not considered further for assessment’.

### Applications that did not satisfy one or more criteria

**4.58** Infrastructure used the overall score as the sole means to rank applications in order of their merit. However, an application could achieve a high overall score—and consequently a high ranking—despite being assessed as having little or no merit against one or more of the assessment criteria. That is, there was no requirement for all assessment criteria to be satisfied.

**4.59** This approach is in conflict with Infrastructure’s risk assessment of LCP, which was provided to its Minister and to the Finance Minister, that stated:

The program will be a competitive process with merit-based project selection where applicants must demonstrate their ability to meet the selection criteria thereby reducing the risk of funding projects that do not satisfy the objectives of the program.

**4.60** The majority of applications on the order of merit list had been scored a zero or a one out of five against one or more of the core assessment criteria.<sup>74</sup> Of those recommended for funding, three had scored zero against criterion 5 (funding). Within advice relating to one of these projects, Infrastructure advised ANAO in May 2013 that:

The Guidelines stated that projects with a high degree of partner contribution would “be favourably considered.” The Department considers its treatment of that application to have been appropriate and the decision not to knock that application out because that criterion was not met, remains the right decision.

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<sup>74</sup> Of the 119 ranked applications, which were scored by the department according to the approach outlined in Figure 4.1, 60 applications scored a zero (‘unacceptable—does not meet the criteria at all or attempt to’) and a further 11 applications scored a one (‘very poor—meets some criteria but unacceptable’) against one or more of the assessment criteria.

**4.61** Notwithstanding that Infrastructure did not consider that applications needed to satisfy the funding criterion (criterion 5) to be recommended for funding, the methodology used still resulted in projects that did not satisfy one or more of the other assessment criteria being ranked equal to, or higher than, projects that satisfied all the other core assessment criteria. To illustrate, Table 4.3 sets out the scores awarded against criterion 1, 2, 3 and 4 for five stream one applications. These applications were ranked as being of equal merit; however, Applications A, B and C were each scored a one (‘very poor—meets some criteria but unacceptable’) against a criterion.<sup>75</sup>

**Table 4.3: Scores awarded against criterion 1, 2, 3 and 4 for five applications that were ranked equally**

Example	Criterion 1: policy compliance	Criterion 2: partnerships	Criterion 3: strategic alignment	Criterion 4: deliverability
Application A	1	2	3	4
Application B	1	4	5	3
Application C	4	5	2	1
Application D	4	3	3	3
Application E	3	3	3	4

Source: ANAO analysis of Infrastructure records.

**4.62** In reference to the assessment criteria generally, the department advised ANAO in November 2012 that:

Applicants scoring a “0” in any of the criterion were not considered ineligible but the chances of being ranked highly on the merit list and subsequently recommended by the Department was low.

**4.63** However, it is not consistent with effective grants administration for the failure of an application to satisfy an assessment criterion to be seen as merely reducing its chances of being recommended. The CGGs require that, unless specifically agreed otherwise, competitive merit-based selection processes are used, based upon clearly defined assessment criteria.<sup>76</sup> In this context, it would be expected that applications would be required to at least satisfy all assessment criteria to be considered for funding.

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<sup>75</sup> The scoring guide is outlined in Figure 4.1.

<sup>76</sup> CGGs, op. cit., p. 24.

**4.64** Similar concerns were identified in respect to a number of other grant programs recently audited by ANAO. This includes a program where, by using the total raw scores from the technical and financial assessments as the sole means to rank applications, there was no requirement for all criteria to be satisfied. This meant that some applications progressing to merit assessment could receive a high score overall, but not meet key criteria, such as financial capacity.<sup>77</sup> In respect of another grant program, ANAO identified that all applications, including three with a merit score of zero, had progressed to the second stage of the assessment process and were offered funding.<sup>78</sup> In particular, such practices can adversely affect whether value for money and the desired program outcomes are able to be achieved.<sup>79</sup>

### **Selection of projects for funding recommendation**

**4.65** From the stream one order of merit list, Infrastructure selected the highest ranked 18 projects for funding recommendation. These had overall scores ranging from 18 to 23 out of 25. Next on the order of merit list was a group of eleven equally-ranked applications that were not selected. The department considered that, as each one had been scored 17 out of 25, there was no basis upon which it could distinguish between them and identify one as being of greater merit than the others.<sup>80</sup> This situation suggests that a small difference in scoring could have a significant impact on an application's success, thereby highlighting the importance of ensuring the underlying scoring methodology was accurately and consistently applied.

**4.66** Infrastructure selected the first five projects on the stream two order of merit list for recommendation. These had been ranked first to equal fourth and were for projects located in: Sydney, Adelaide, Albury-Wodonga, Melbourne-Geelong and Wollongong. The department then selected four projects from further down the merit list so as to provide a more diverse mix of projects in

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77 ANAO Audit Report No.1 2012–13, *Administration of the Renewable Energy Demonstration Program*, August 2012, p. 26.

78 ANAO Audit Report No.22 2012–13, *Administration of the Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program*, February 2013, pp. 21–22.

79 In this context, see also: ANAO Audit Report No.38 2011–12, *Administration of the Private Irrigation Infrastructure Operators Program in New South Wales*, Canberra, 5 June 2012; and ANAO Audit Report No.11 2012–13, *Establishment, Implementation and Administration of the Quarantined Heritage Component of the Local Jobs Stream of the Jobs Fund*, November 2012, p. 92.

80 One of these eleven equally-ranked applications—an economic study into the potential future uses of the Macquarie Point Railyards site in Hobart—was subsequently approved by the Minister for LCP funding. See further at paragraph 5.32.

terms of project geography and project type.<sup>81</sup> The four projects selected for recommendation, and the documented reasons for not selecting other equally or higher ranked projects, are set out in Table 4.4. The overall scores of the nine stream one projects selected for funding recommendation ranged from 27 to 37 out of 40.

**Table 4.4: Basis for selection of four projects for funding recommendation over equally or higher ranked projects**

Ranked	Project	Selection decision
Equal 4 <sup>th</sup> (with one selected)	Parramatta River City Renewal	Not selected as 'Higher ranked project in Sydney to be funded—also other active transport projects funded'.
7 <sup>th</sup>	Stamford Park Development (Melbourne)	Not selected as 'Higher ranked project in Melbourne to be funded'.
Equal 8 <sup>th</sup>	Christie Downs Urban Regeneration (Adelaide)	Not selected as 'Higher ranked projects in Adelaide to be funded'.
Equal 8 <sup>th</sup>	21st Century Living Program and Display Village (Sydney)	Not selected as 'Higher ranked project in Sydney to be funded'.
Equal 10 <sup>th</sup>	Liveable Liverpool	Not selected as 'Higher ranked project in Sydney to be funded'.
Equal 10 <sup>th</sup>	Vibrant Adelaide	Not selected as 'Higher ranked projects in Adelaide to be funded'.
Equal 10 <sup>th</sup>	Rockingham Strategic Regional Centre Renewal	Selected for funding recommendation.
13 <sup>th</sup>	Hobart Rivulet Park Strategic Master Plan Implementation	Selected for funding recommendation.
Equal 14 <sup>th</sup>	Historical Interpretation of Newcastle and the Hunter Region	Selected for funding recommendation.
Equal 14 <sup>th</sup>	Logan Central Affordable Housing	Selected for funding recommendation.
Equal 14 <sup>th</sup>	Coal Loader Centre for Sustainability (Sydney)	Not selected. Reason for decision not documented. However, a higher ranked project in Sydney had been selected for funding recommendation.

Source: ANAO analysis of Infrastructure documentation.

81 This approach is consistent with the LCP guidelines, which stated that 'Funding approval is at the discretion of the Minister, including taking into account the overall mix of projects to be funded'.

## Value for money

**4.67** As reflected in the CCGs, it is expected that value for money will be a core consideration in determining funding recipients under a grant program.<sup>82</sup> For competitive application-based grant programs, value for money analysis is typically undertaken by comparing the relative merits of all eligible, compliant proposals. Although, some programs also include a separate value for money criterion. In this context, the CCGs advise agencies that achieving value in grants administration involves the careful comparison of costs, benefits and options.

**4.68** In addition to the value for money considerations outlined in the CCGs, under the Commonwealth's financial framework, the overall test as to whether public money should be spent requires consideration of whether a spending proposal represents efficient, effective, economical and ethical use of public money that is consistent with the policies of the Commonwealth (particularly the CCGs and the grant program guidelines). Often, this is referred to as a 'value for money' test.

**4.69** The inadequacy of value for money assessments has been identified as an issue by ANAO in previous performance audits. This includes the audit of the Infrastructure Employment Projects Stream of the Jobs Fund, which found that 'value for money considerations were not addressed by Infrastructure in its assessment work so as to support its advice to the Infrastructure Minister that the approval of funding for projects represented an efficient, effective and ethical use of public money'.<sup>83</sup> In the subsequent audit of the Bike Paths component of the Jobs Fund<sup>84</sup>, ANAO recommendations included that, in implementing funding programs for the construction of infrastructure, Regional Australia undertakes analysis of the value for money of proposals

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82 'Achieving value with public money' is one of the seven key principles for grants administration established by the Australian Government, with the CCGs stating: 'Achieving value with public money should be a prime consideration in all aspects of grants administration' (Commonwealth Grant Guidelines, p. 30).

83 ANAO Audit Report No.7 2011–12, *Establishment, Implementation and Administration of the Infrastructure Employment Projects Stream of the Jobs Fund*, p. 29.

84 Up until 14 September 2010, the then Department of Infrastructure, Transport, Regional Development and Local Government administered the bike paths component, which included the application assessment process.



received, including analysing the expected outcomes to be achieved for the funding sought and assessing whether the proposed cost is reasonable.<sup>85</sup>

**4.70** In terms of a value for money assessment of the 163 eligible LCP applications, it is clear from departmental documentation that Infrastructure assessed the 27 applications it recommended for funding as representing value for money. It is also clear that the department assessed the 44 stream two applications that did not score highly against at least one of the relevant policy criteria (criterion 6, 7 and 8 in Table 4.2) as not representing value for money. However, the extent to which the other 92 eligible applications had been assessed by Infrastructure as representing value for money could not be determined from the departmental documentation.

### **Value for money assessment of 92 of the eligible, ranked applications**

**4.71** Infrastructure's brief to the Minister said:

Based on an assessment of proposals against the Liveable Cities Program guidelines and the Liveable Cities program assessment criteria, the Department recommends that an approval of funding for eligible projects would be a 'proper use' of Commonwealth resources.

**4.72** The above advice to the Minister indicated that Infrastructure had assessed all of the 92 eligible applications that had been ranked but not recommended for funding as representing value for money. However, while some of these applications had been assessed by the department as performing strongly against all applicable assessment criteria, others had achieved overall scores as low as 3 out of 25. ANAO sought advice from Infrastructure in October 2012 as to the basis on which the department had concluded that funding eligible projects that did not meet one or more of the assessment criteria would be a proper use of resources. In response, Infrastructure advised the ANAO in November 2012 that:

The Department concedes that a reading of the individual sentence [quoted above] in the latter part of the brief of 20 February 2012 in isolation of the broader context of all the material provided to the Minister could suggest that any eligible project represented value for money. This was not the Department's intention.

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85 ANAO Audit Report No.27 2011–12 *Establishment, Implementation and Administration of the Bike Paths Component of the Local Jobs Stream of the Jobs Fund*, p. 33.



**4.73** However, neither this response, nor the assessment material supporting the advice to the Minister, identified which of the 92 applications Infrastructure had identified as representing value for money, and which it considered to not represent value for money. In February 2013, and again in April 2013, ANAO sought advice from Infrastructure that clearly identified those applications in each category. Infrastructure's responses outlined the steps it had taken to consider value for money but the department did not provide any clarity as to those applications that had been assessed as offering value for money, and those that did not. Rather, Infrastructure's advice to ANAO summarised the process undertaken to produce the order of merit lists. It advised in May 2013 that 'the department did not undertake a separate value for money assessment outside this process, as it considered this process would result in higher value for money projects being those with a higher ranking'.

**4.74** In reference to ineligible projects, and those stream two projects that had not performed highly against at least one of criterion 6, 7 or 8, the department stated in May 2013 that:

These projects did not in our view represent value for money as the projects would not have delivered the outcome the Government was seeking through its investment. All other projects represented different degrees of value for the Government for differing costs. These were ranked in order of best investment—the merit list.

**4.75** The above response indicates that the department considered all ranked applications represented value for money, just to differing degrees. However, it is most unlikely that those ranked applications assessed as 'unacceptable' against one or more core criterion could be considered to represent value for money. In this respect, based on the department's records and its responses to ANAO, it is evident that the department did not identify a point on each merit list at which ranked applications ceased to represent value for money due to them being assessed as not meeting, to a sufficient extent, the published assessment criteria.

## Conclusion

**4.76** Improvements were evident in Infrastructure's merit-assessment approach compared with earlier grant programs audited by ANAO. In particular, all eligible applications were assessed against the published assessment criteria, with a scoring approach adopted that enabled the relative merits of applications against each criterion, and in aggregate, to be compared. Specifically, applications were awarded a score out of five against each

applicable criterion, which were added to produce an overall score for each project.

**4.77** There were eight assessment criteria for LCP; the first five were applicable to all projects and the other three were only applicable to stream two (demonstration) projects. The assessment records indicate that applications were consistently and transparently assessed against criterion 1, 6, 7 and 8. That is, the extent to which the project met the COAG national criteria for cities and the goals of the National Urban Policy.

**4.78** The remaining criteria related to project deliverability and alignment with local and state plans, as well as the extent of stakeholder collaboration and partner contributions (criterion 2, 3, 4 and 5). While assessors adequately recorded their findings, there were inconsistencies in the scores awarded. This reflected the approach taken to staffing the assessment work and the lack of benchmarks to promote a consistent approach. Further, the planned quality assurance processes were not fully implemented. This situation adversely affected the reliability of the scores as a basis for determining the varying merits of competing applications in terms of the assessment criteria. Reliability could have been enhanced if, for each criterion, the assessor guidance contained benchmarks for the achievement of each score on the rating scale and if those benchmarks had then been consistently applied in the assessment process. Such an approach is quite common in grant programs administered by other agencies.

**4.79** Stream two applications were required to score highly against at least one of criterion 6, 7 and 8 to be considered for funding, which corresponded with the three goals of the National Urban Policy. Beyond this, there was no minimum standard set against the assessment criteria under either stream one or stream two. That is, eligible applications were ranked in order of merit solely on the basis of their overall scores. Applications therefore could be—and were—recommended for funding notwithstanding that they had been assessed as not satisfying an assessment criterion. As has previously been noted by ANAO, it is most unlikely that a proposal that does not demonstrably satisfy the merit assessment criteria set out in the published program guidelines to be considered to represent an efficient and effective use of public money and to be

consistent with relevant policies (which are key elements of FMA Regulation 9<sup>86</sup>).<sup>87</sup>

## Recommendation No.1

**4.80** ANAO recommends that the Department of Infrastructure and Transport further improve the assessment of eligible applications to competitive, merit-based grant programs by:

- (a) clearly and consistently articulating benchmarks and/or standards to inform the judgment of assessors when considering the extent to which an application has met the published assessment criteria; and
- (b) establishing a minimum score that an application must achieve against each assessment criterion in order to progress in the assessment process as a possible candidate to be recommended for funding.

### Infrastructure's response:

**4.81** *Agreed in part. The Department considers there may be merit in adopting a benchmark approach for future assessment processes. The Department notes that in some situations, establishing minimum scores may be of value, however, this depends on the objectives and design of the relevant program, and whether particular criteria are considered desirable or essential. Overall, the assessment process undertaken for this program was fit for purpose and successful in achieving a robust merit list of projects that directly related to the program guidelines and objectives.*

### ANAO comment:

**4.82** *ANAO analysis does not support Infrastructure's statement that, in the absence of minimum scores being established, the assessment process achieved a 'robust merit list of projects that directly related to the program guidelines and objectives'. In particular, half of the 119 applications that were on the merit lists had been scored a zero ('unacceptable—does not meet the criteria at all or attempt to') out of five against*

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86 FMA Regulation 9 sets out the principle obligation applying to the approval of all spending proposals. It requires an approver to make reasonable inquiries in order to be satisfied that a proposal would be a proper use of Commonwealth resources and would not be inconsistent with the policies of the Commonwealth. For grant spending proposals, the relevant policies include the CGGs and the specific guidelines established for the program.

87 The shortcomings with such an approach were previously raised by ANAO Audit Report No.38 2011–12, *Administration of the Private Irrigation Infrastructure Operators Program in New South Wales*, Canberra, 5 June 2012 and Audit Report No.1 2012–13, *Administration of the Renewable Energy Demonstration Program*, Canberra, 21 August 2012.

*one or more of the five core criteria published in the program guidelines. There were also 12 applications on the merit list that had been scored a one ('very poor—meets some criteria but unacceptable') out of five against the core criterion of 'policy compliance'. Two of these had been scored either a zero or a one against each criterion.*

**4.83** An order of merit list was produced for each funding stream. Infrastructure selected the 18 highest ranked projects from the stream one order of merit list for funding recommendation. It also selected the five highest ranked projects from the stream two order of merit list. As the next six projects on that list were located in major cities already represented amongst the five higher ranked projects, they were not selected for recommendation. Instead, Infrastructure recommended the four projects listed immediately below them, which were located in major cities not already represented under stream two. Consistent with the program objectives, this approach was designed to provide a more diverse mix of projects in terms of project geography and project type.

**4.84** Infrastructure advised the ANAO that the process it undertook allowed for the recommendation of projects that represented value for money and a proper use of Commonwealth resources in the context of the objectives of the program. However, the department did not make an assessment record of whether, and to what extent, each eligible application had been assessed as representing value for money. Further in this respect, the department has advised ANAO that it considered that all ranked applications represented value for money, just to differing degrees. This is notwithstanding that the majority of the ranked applications had been scored a zero or a one out of five against one or more of the core assessment criteria. Given the program was established to operate through a competitive, merit-based selection process, applications assessed as not meeting the criteria are most unlikely to represent value for money in the context of the program objectives.<sup>88</sup> As a minimum, some further explanation would be expected.

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88 This has been recognised in respect to some Australian Government grant programs, with the guidelines outlining that applications must rate highly against each of the merit criteria to receive a grant offer.

## Recommendation No.2

**4.85** ANAO recommends that the Department of Infrastructure and Transport, in the conduct of grants assessment processes, clearly record the value for money offered by each proposal under consideration in the context of the program objectives and criteria.

### Infrastructure's response:

**4.86** *Not Agreed. The Department notes the ANAO's positive comments about the merit assessment process and recommendations made to the Minister. The ANAO has made no direct finding that the program did not represent value for money. The Department believes that the achievement of value for money was at the centre of its assessment and ranking process and that the program has been successful in meeting the Government's objectives.*

**4.87** *The Department considers that the merit list it developed, and the further assessment (including the construction viability assessment) it undertook on the higher ranked projects was the appropriate way to achieve and record value for money.*

### ANAO comment:

**4.88** *The merit list descended to applications that had an overall total score against the merit assessment criteria as low as three out of 25. As indicated at paragraph 4.84, in the absence of further explanation being recorded, it is difficult to envisage that such applications could reasonably be seen as representing value for money in the context of the published program objectives.*

## 5. Advice to the Minister, and Funding Decisions

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*This chapter examines the advice provided to the Minister, as decision-maker, and the funding decisions that were then taken.*

### Introduction

**5.1** The grants administration framework has a particular focus on the establishment of transparent and accountable decision-making processes for the awarding of funding. Key underpinnings of the framework include that Ministers do not approve a proposed grant without first receiving agency advice on its merits relative to the program's guidelines (including the published assessment criteria), and that they record the basis of each approval, in addition to the terms of the approval.

**5.2** These requirements, together with other related requirements under the framework, do not affect a Minister's right to decide on the award of grants. Rather, they provide a decision-making framework such that, where Ministers elect to assume a decision-making role, they are well informed on the assessment of the merits of grant applications. The requirements also seek to promote transparency of the reasons for decisions.

**5.3** Against this background, ANAO examined the advice provided to the Minister and the funding decisions that were then taken, including the recorded basis for those decisions.

### Advice to the Minister

**5.4** The importance of an administering agency providing a Ministerial decision-maker with clear advice has been highlighted by the JCPAA. With respect to this matter, the JCPAA has concluded that:

It is the role of agencies to provide full and considered briefs to Ministers, and to provide 'full and fearless' advice to enable Ministers to make decisions with a clear understanding of all competing factors.<sup>89</sup>

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<sup>89</sup> Joint Committee of Public Accounts and Audit, *Report 430: Review of Auditor-General's Reports Nos 47 (2010–11) to 9 (2011–12) and Report Nos. 10 to 23 (2011–12)*, Canberra, May 2012, p. 55.

**5.5** Agency advice should include providing Ministers with a clear recommendation as to whether a proposed grant should be approved or rejected. Amongst other benefits, this enhances the capacity of agencies and Ministers to meet related reporting obligations and assists Ministers to identify those occasions where it will be necessary to separately record the basis for any decision to approve a grant in order to comply with their broader obligations when acting as a financial approver.

**5.6** There may be circumstances where there are various funding options reasonably open for consideration. In such circumstances, it is appropriate for an agency to canvass the relative merits of the available options with a Minister. Nevertheless, it is important that the agency advice also includes a clear statement as to which option is recommended, and why.<sup>90</sup>

### **Brief to the Minister of 20 February 2012**

**5.7** Consistent with the grants administration framework, the departmental brief provided by Infrastructure to the Minister on 20 February 2012 included a clear funding recommendation in respect to both stream one and stream two of LCP. Under stream one, the department recommended the highest ranked 18 projects as constituting a reasonable portion of the overall funding available (just over 25 per cent), stating that the recommended projects were superior to the remaining applications that were not recommended.

**5.8** Infrastructure then identified two possible funding options under stream two. 'Option A' listed the seven projects ranked highest that could be accommodated within the remaining available funding. 'Option B' listed the five highest ranked projects and four other highly ranked projects selected to provide greater diversity in terms of project geography and type. The basis for selecting these four projects over others on the order of merit list was clearly set out in the brief (and is explained at paragraph 4.66). The department presented the strengths and weaknesses of the two options, and recommended option B to the Minister for approval.

**5.9** In total across both streams, Infrastructure recommended that 27 applications be funded at a cost of \$19.7 million. Further, it recommended

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<sup>90</sup> For a more detailed discussion of agency advice on the merits of grant spending proposals, see Audit Report No.21 2011–12, *Administration of Grant Reporting Obligations*, Canberra, 24 January 2012, pp. 44–73.



that the Minister retain the remaining \$300 000 as a contingency pending the finalisation of the funding agreements.<sup>91</sup> In addition, the briefing package:

- outlined the framework that applies to grant approvals, including the Minister's obligation under the CCGs to report any grants awarded in his own electorate (the Minister was advised that none of the recommended grant recipients were within his electorate);
- identified all applications, including those assessed as ineligible;
- provided an overview of the application assessment process; and
- provided the order of merit lists for stream one and two, which contained the scores awarded to each application against the assessment criteria.

**5.10** With respect to project risk, the brief to the Minister advised that risk management was a consideration in the assessment of applications against criterion 4 (deliverability). Additionally, that high-ranking stream two projects had undergone a preliminary construction viability assessment. The department advised the Minister that the risks identified in successful projects would be managed through a number of strategies, including through milestone payments upon delivery of outcomes in the funding agreements. In relation to stream two projects, it also advised how risks identified in the construction viability assessments would be treated prior to entering an agreement. The extent to which Infrastructure then implemented these treatments is discussed in paragraphs 7.38 to 7.41.

## **Meeting of 14 March 2012**

**5.11** The Minister did not sign the 20 February 2012 brief, instead requesting a meeting with departmental staff to discuss the recommendations. The meeting was held on 14 March 2012 and Infrastructure documented the discussions in a file note. The file note outlined the Minister's preferred projects, his reasons and his requested points of clarification as expressed at the meeting. It also documented the advice given by the department at the meeting, and what further advice was still required. The approach taken to

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91 This aligns with the guidance in the ANAO Better Practice Guide which recognises the merits of retaining a proportion of the available funding as a contingency. It notes that 'it is not possible for the application of cost estimating standards to eliminate cost overruns' and as such there is a residual risk of unanticipated cost increases which needs to be managed (ANAO Better Practice Guide, op. cit., p. 82.)



recording these discussions supports transparency and accountability in decision-making, and is consistent with the CGGs.

### **Subsequent brief to the Minister of 19 March 2012**

**5.12** On 19 March 2012, Infrastructure submitted a further brief against which the Minister could formally record his decision about funding under LCP. This brief specifically recommended that the Minister:

- note the department’s funding recommendations and advice of 20 February 2012;
- note the attached file note of the 14 March 2012 meeting;
- agree to finalise his funding decisions by approving the ‘preferred’ projects as identified by the Minister at the 14 March 2012 meeting; and
- sign letters advising the successful applicants of the funding decision.

**5.13** Infrastructure clearly delineated between its recommendations in the 20 February 2012 brief and the decision of the Minister with respect to his ‘preferred’ projects. This approach also accords with the intent of the grants administration framework to achieve transparency and accountability around decision-making.

## **Funding decisions**

**5.14** The Minister signed and annotated the 19 March 2012 brief on 2 April 2012. In so doing, the Minister approved all of the 18 projects recommended by Infrastructure under stream one, and one project that had not been recommended, for a total of \$5.56 million. He also approved five of the nine projects recommended under stream two, plus two projects not recommended, for a total of \$14.44 million.<sup>92</sup> A summary of the 26 projects approved for funding is provided at Appendix 2.

**5.15** The Minister then formally withdrew his approval of \$500 000 for a stream one project—the Redfern Station Precinct—following a further departmental brief signed 19 April 2012 (see further at paragraphs 5.36 to 5.38). In that brief, the Minister agreed to Infrastructure’s recommendation that the

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<sup>92</sup> The not recommended but approved projects, and the recommended but not approved projects, are identified in Table 5.1.

\$500 000 be held as a contingency as the department considered there was no clear option to apply the funding to other LCP projects.

**5.16** The end result was that 25 projects remained approved for a total of \$19.5 million. In making this decision, the Minister had:

- approved 22 projects that had been recommended by Infrastructure (see Appendix 2);
- rejected five projects that had been recommended (see Table 5.1); and
- approved three projects that had not been recommended (see Table 5.1).

## **Approval and recording requirements under the financial framework**

**5.17** Infrastructure advised the Minister that:

FMA Regulation 9 provides that an approver must not approve a spending proposal unless he/she is satisfied, after reasonable inquiries, that giving effect to the spending proposal would be a 'proper use' of Commonwealth resources. 'Proper use' means efficient, effective, economical and ethical use that is not inconsistent with the policies of the Commonwealth.

Based on an assessment of proposals against the Liveable Cities Program guidelines and the Liveable Cities program assessment criteria, the Department recommends that an approval of funding for eligible projects would be a 'proper use' of Commonwealth resources.

**5.18** The test of proper use of Commonwealth resources under Regulation 9 is often referred to as a 'value for money' test. As noted in Finance Circular 2011/01, where decision-makers receive a briefing on a spending proposal, they can rely on that briefing as constituting 'reasonable inquiries' for the purposes of the value for money test, if the briefing appropriately addresses the requirements under Regulation 9.<sup>93</sup> As the wording Infrastructure used in its advice implied that the approval of any eligible LCP project would be a proper use of Commonwealth resources, the Minister could rely on this advice in respect to his approval of eligible LCP projects regardless of whether or not they had been recommended for funding.

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93 Finance Circular 2011/01, *Commitments to spend public money (FMA Regulations 7 to 12)*, 31 March 2011, p. 21.

**5.19** However, Infrastructure informed ANAO in March 2013 that the advice in the brief to the Minister ‘would have been better worded if it referred to “recommended” projects rather than “eligible” projects’. This leaves it unclear as to whether Infrastructure assessed the three projects approved by the Minister that had not been recommended for funding (see Table 5.1) as representing value for money. A risk of the approach taken by the department is that the approved projects may not therefore maximise the value for money achieved by, and effectiveness of, the program.

*Recording requirements for approvers*

**5.20** FMA Regulation 12 relates to recording the approval of a spending proposal.<sup>94</sup> The decision-maker needs to record the terms of the approval and be satisfied that the record provides appropriate evidence of compliance with FMA Regulation 9. This applies to the approval of any type of spending proposal.

**5.21** FMA Regulation 12(2) mandates additional recording requirements for the approval of grants, whereby there is a need to also record the ‘basis’ of an approval. The CGGs provide that the basis of an approval means the ‘substantive reasons’ for the approval.<sup>95</sup> A decision-maker must therefore record the substantive reasons for being satisfied that the proposal satisfies the requirements of Regulation 9.

**5.22** Where the Minister agreed with Infrastructure’s recommendations for LCP funding, he could point to the briefs as fulfilling his requirements for the purposes of Regulations 9, 12 and, where applicable, 12 (2). This is irrespective of whether the recommendation was that the LCP project be approved or not approved, so long as he was satisfied that the underlying assessment had been conducted with rigour.

*Where decisions diverge from those recommended*

**5.23** Additional documentation is required in instances where the approval decision deviates from the assessment or recommendations of the agency. In this regard, FMA Regulation 12(2)—which has applied to grant approvals

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94 Guidance on the interpretation and operation of FMA Regulation 12 is provided in Finance Circular 2011/01, *Commitments to spend public money (FMA Regulations 7 to 12)*, 31 March 2011.

95 CGGs, op. cit., p. 8.

since 1 July 2009—reflects the findings of the 2008 Strategic Review of Grants.<sup>96</sup> The Strategic Review observed that:

Different conclusions can be drawn, quite legitimately, from any given set of information and evidence, and it should be open to a Minister to reach a decision different from that recommended in a department's or agency's advice. That being said, and in view of the sensitivity likely to attach to such decisions, special care will be needed in these cases in order to demonstrate that the relevant program guidelines and selection criteria have been observed, that all grant applicants have been treated fairly, and that the requirements of the financial framework have been met.<sup>97</sup>

**5.24** The 20 February 2012 brief to the Minister included advice on the requirement to record the basis for any decision he might make which diverged from the recommendations of the department, so as to comply with FMA Regulation 12. The brief stated that this included instances where the Minister may: take different or additional factors into account in coming to his decision; approve an amount different to that recommended; amend or add to the conditions and/or risk treatments recommended; and/or choose to approve a project over one of the projects recommended by the department.

**5.25** However, the brief did not explain that where a competitive grants process has been conducted it is important for decisions to select certain projects for approval in preference to other projects (particularly those that were more highly-ranked as a result of the documented assessment process) to be framed within the context of the published grant guidelines, including the assessment criteria. This is because one of the tests of proper use under FMA Regulation 9 is that the use of Commonwealth resources not be inconsistent with the policies of the Commonwealth. The program guidelines are a relevant policy of the Commonwealth and so must be considered in the context of approving LCP funding.<sup>98</sup>

**5.26** The need to demonstrate that the relevant program guidelines and assessment criteria have been observed was also expressed in the Strategic Review of Grants, as quoted above. Accordingly, Infrastructure should have made this clear to the Minister, given the department is responsible for

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96 Mr Peter Grant PSM, *Strategic Review of the Administration of Australian Government Grant Programs*, ('Strategic Review of Grants'), 31 July 2008.

97 *ibid.* p. 8.

98 CGGs, *op. cit.*, p. 10.

advising the Minister on the requirements, and must take appropriate and timely steps to do so where a Minister exercises the role of decision-maker in grants administration.<sup>99</sup>

### **Recorded basis for decisions that diverged from those recommended**

**5.27** A reason was recorded for each of the eight decisions that diverged from that recommended by Infrastructure. The recorded reasons are provided at Table 5.1.

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99 This responsibility on agencies is set out in the CGGs, op. cit., p. 11.

**Table 5.1: Recorded basis for diverging from the recommendations of Infrastructure**

Project Name	Stream	Payment type	Recorded basis for decision
Projects not recommended by Infrastructure that were approved:			
Macquarie Point Railyards	One	FFR	File note <sup>1</sup> attached to brief signed 2 April 2012: 'The Minister sought advice on funding of ... Macquarie Point (Hobart) Railyards ... based on representations from the Tasmanian Minister for Economic Development ... identifying this project was the highest priority planning project for Tasmania. Given this, Mr Albanese decided to direct funding to the Macquarie Point project instead of Demonstration Project ... Hobart Rivulet Park ...'
Parramatta River City Renewal	Two	Grant	File note attached to brief signed 2 April 2012: 'The Minister expressed a preference to support and sought advice on the ability of the program to fund ... Parramatta River City Renewal project in place of the equally ranked project ... Green Street Illawarra project. The basis for this preference was to proceed with a project in a higher population area, recognising the role of Parramatta in providing a 'second CBD' for Sydney.'
Vibrant Adelaide	Two	FFR	Minister's annotation to brief signed 2 April 2012: 'With approval for Vibrant Adelaide instead of Communities Around Stations after discussions and correspondence from SA Govt.'
Projects recommended by Infrastructure that were not approved:			
Redfern Station Precinct	One	FFR	Brief signed 19 April 2012: 'In discussions with the Secretary of the Department, you identified issues with the Redfern Station Precinct ... You advised your preference to not now proceed with that project ...'
Communities Around Stations	Two	FFR	Minister's annotation to brief signed 2 April 2012: 'With approval for Vibrant Adelaide instead of Communities Around Stations after discussions and correspondence from SA Govt.'
Green Street Illawarra	Two	FFR	File note attached to brief signed 2 April 2012: 'The Minister expressed a preference to support and sought advice on the ability of the program to fund ... Parramatta River City Renewal project in place of the equally ranked project ... Green Street Illawarra project. The basis for this preference was to proceed with a project in a higher population area, recognising the role of Parramatta in providing a 'second CBD' for Sydney.'

Project Name	Stream	Payment type	Recorded basis for decision
Hobart Rivulet Park	Two	Grant	File note attached to brief signed 2 April 2012: 'The Minister sought advice on funding of ... Macquarie Point (Hobart) Railyards ... based on representations from the Tasmanian Minister for Economic Development ... identifying this project was the highest priority planning project for Tasmania. Given this, Mr Albanese decided to direct funding to the Macquarie Point project instead of Demonstration Project ... Hobart Rivulet Park ...'
Historical Interpretation of Newcastle	Two	Grant	File note attached to brief signed 2 April 2012: The Minister expressed a preference ... not to proceed with... Historical Interpretation of Newcastle ... Basis for this is that the Minister considered that other projects he had a preference for, namely [Parramatta River City Renewal], had a stronger call on program funds than the [Historical Interpretation of Newcastle] application.'

Source: ANAO analysis of Infrastructure's briefs to the Minister relating to LCP.

Note 1: The brief states that this file note of the 14 March 2012 meeting documents the Minister's reasons for selecting particular projects for the purposes of FMA Regulation 12.

**5.28** Table 5.1 identified whether each decision related to a proposal defined as a grant or as a payment made for the purposes of the FFR Act.<sup>100</sup> This is because the additional requirement to document the basis for an approval only applies to grants. There are, however, more general requirements of transparency and accountability around decision-making that should be taken into account. In this respect, recording a sufficient basis for a decision about a spending proposal (grant or otherwise), such that the decision is open to scrutiny and justifies the use of public resources, is good practice.<sup>101</sup> In the context of LCP, where all applications are assessed as grants on a competitive basis against the assessment criteria, good practice would be for a decision-maker to record a reason to diverge from the recommendation of an agency on the same grounds as if the applications falling within the FFR framework were bound by FMA Regulation 12(2).

**5.29** Regardless of whether or not the Minister was required to *record* the basis for a given approval, the basis itself needed to fulfil the value for money test because FMA Regulation 9 applies to both the grant and FFR spending proposals. In this regard, and as mentioned at paragraph 5.25, the LCP guidelines are a relevant policy of the Commonwealth. However, the reasons as recorded were not framed in the context of the LCP guidelines and did not address the relative merits of competing applications against the published assessment criteria.

## **ANAO analysis of recorded bases**

**5.30** The Minister rejected a recommendation under stream two to fund the Historical Interpretation of Newcastle on the basis that other approved projects ‘had a stronger call on program funds’, specifically the Parramatta River City Renewal project. The Parramatta project had not been recommended by Infrastructure, but had been ranked more highly on the order of merit list. However, this situation did not address why Logan Central Affordable Housing had a strong enough call on programs funds to be approved over the equally ranked Newcastle project.

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<sup>100</sup> See paragraphs 2.14 to 2.20 for an explanation of the grants and FFR frameworks as they apply to LCP.

<sup>101</sup> This has been reflected in a number of ANAO audit reports and Parliamentary Committee reports produced prior to FMA Regulation 12 being amended to require this action in respect to grants.



**5.31** The Minister also preferred to fund the Parramatta City Renewal project over the equally ranked Green Street Illawarra for the reason that Parramatta provided a ‘second CBD’ for Sydney. While the record does not refer to the assessment criteria, the recorded reason is relevant to assessment criterion 1 and 8 because these include consideration of the degree to which a project delivers on the National Urban Policy goal of productivity. Productivity in the National Urban Policy context includes integrating land use and infrastructure. With respect to such integration, the Policy refers to LCP as ‘supporting the development of “second CBDs” in our largest cities of urban centres, such as Parramatta for Sydney, that will create a better distribution of opportunity and lifestyle choice’.<sup>102</sup>

*Decisions informed by the input of State Ministers*

**5.32** The Minister rejected a recommendation to fund Hobart Rivulet Park under stream two to instead fund Macquarie Point Railyards under stream one. Scoring and ranking under the two LCP funding streams were separate activities. However, the recorded reason for the funding decision about both projects did not relate to the LCP selection process or the other projects in the separate funding streams against which these two Tasmanian projects competed. Instead, the recorded reason was that the Tasmanian Minister for Economic Development had identified this project as the Tasmanian Government’s highest priority planning project. The state government submitted the Macquarie Point Railyards application<sup>103</sup>, whereas the Hobart Rivulet Park application was submitted by a competing applicant (the Hobart City Council).

**5.33** The Minister annotated the approval brief signed on 2 April 2012 to record that he approved Vibrant Adelaide instead of the recommended Communities Around Stations project. The recorded reason was ‘after discussions and correspondence from SA Govt’. The discussions were with the South Australian Minister for Housing and Urban Development. Following those discussions, the Minister received written confirmation on 29 March 2012

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<sup>102</sup> National Urban Policy, op. cit., p. 31.

<sup>103</sup> This application was for an economic study into the potential future uses of the Macquarie Point Railyards site in Hobart. On 15 May 2012, the Tasmanian Minister for Economic Development wrote to the Minister requesting \$50 million in Australian Government funding to remediate the Macquarie Point Railyards site. On 21 May 2012, Mr Andrew Wilkie MP, Federal Independent Member for Denison, wrote to the Minister in similar terms. The requested \$50 million was approved on 18 June 2012 to be paid in advance by 30 June 2012 under a project agreement entered into with the Tasmanian Government.

that the Vibrant Adelaide project was the South Australian Government's preferred project. The recorded reason does not otherwise outline why Vibrant Adelaide, ranked equal tenth on the order of merit list, constituted a better application to fund than Communities Around Stations that had been ranked equal fourth on merit. The recorded reason also did not address why the Vibrant Adelaide project represented better value for money than the four other applications ranked equally or higher that were not funded. One of these was also a project located in Adelaide, which had been ranked equal eighth and submitted by a local government.

**5.34** The LCP guidelines did not advise that State Ministers would be given the opportunity to nominate their 'priority' project for funding after the close of applications (or that this would affect the selection of applications). Further, the opportunity to nominate a priority project to the Minister during the decision-making stage was not given to Ministers in all states and territories. In the context of LCP, there are also potential conflict of interest considerations given the state and territory governments were themselves applicants competing against other states and against local government applicants for funding.

**5.35** With respect to applicants being provided with an opportunity to engage with Ministers during a decision-making process in a manner not generally available or known to other applicants, the ANAO audit of the Regional Partnerships Programme is relevant. Specifically, in that audit ANAO noted that 'due to the importance of applicants having equitable access to grants programmes and all material factors leading to decisions being documented, it would be prudent for the department to ... extend its current guidance to deal with these matters'.<sup>104</sup> Therefore, in the interests of equitable access and transparency, there is a strong case for making stakeholders aware of the opportunity provided to state/territory governments for input to the process at the decision-making stage as applied to the South Australian and Tasmanian Governments in this round of the program. For example:

- the role of Regional Development Australia Committees in the assessment and decision-making process for the Regional Development

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104 ANAO Audit Report No.14 2007–08, *Performance Audit of the Regional Partnerships Programme*, Volume 2—Main Report, pp.188–189.

Australia Fund grant program are clearly outlined in the published program guidelines; and

- similarly, the guidelines for the Supported Accommodation Innovation Fund grant program outlined the role that state/territory governments were to play in the assessment of applications.

### *Decision to reverse approval*

**5.36** On 2 April 2012 the Minister approved the Redfern Station Precinct project<sup>105</sup>, which had been submitted by the New South Wales Government and recommended by Infrastructure under stream two. The Minister subsequently withdrew that approval and documented this decision in a brief he signed on 19 April 2012. The only indication of the basis for the Minister's decision recorded in that brief is that 'In discussions with the Secretary of the Department, you identified issues with Redfern Station Precinct Feasibility Strategy project (P046)'.

**5.37** The financial framework does not require a decision-maker to record the basis of a decision to withdraw approval of a funding proposal. However, Finance Circular 2011/01 states that it is appropriate for a decision-maker to record the basis for that decision so as to accord with the general requirements of accountability and transparency 'where a decision has been made to not proceed with a significant commitment to spend public money which had previously been approved under the Regulations'.<sup>106</sup> In this context, ANAO sought advice from Infrastructure on the reasons for the withdrawal of funding in October 2012 and then again in February 2013 (as a substantive reply to the earlier request had not been provided). In March 2013, Infrastructure indicated to ANAO that there was no information beyond the sentence quoted at the end of paragraph 5.36 above.

**5.38** ANAO subsequently identified a draft version of the briefing relating to the withdrawal of funding approval for the Redfern Station Precinct project on Infrastructure files. It states:

Your office identified an issue with the Redfern Station Precinct Feasibility Strategy project in relation to its physical location following the redistribution

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<sup>105</sup> According to the application, the project involved the development of a feasibility strategy to 'consider how to address access and connectivity issues in the Precinct, within the context of longer term upgrading/redevelopment of Redfern Station and its integration across road and rail corridors'.

<sup>106</sup> Finance Circular 2011/01, op. cit., pp.34–35.

of New South Wales electoral boundaries. The effect of the redistribution is that the project falls within the State electorate of Marrickville.<sup>107</sup>

**5.39** The proposed audit report issued under section 19 of the *Auditor-General Act 1997* was provided to the Minister for any comments and his attention was particularly drawn to paragraphs 5.36 to 5.38. The Minister did not provide comments on the proposed audit report.

## **Decisions to approve reduced funding**

**5.40** The CGGs highlight that one of the specific risks to a granting activity is the effect of partial or insufficient grant funding on the viability of projects. As has been noted in a number of ANAO audit reports, this constitutes a greater risk where there is no discussion with a proponent about a proposal to reduce the funding amount to less than that requested by an applicant.

**5.41** The LCP guidelines conferred on the Minister the discretion to determine the amount of funding approved for a project. For three projects, the Minister approved reduced funding amounts from the \$4 million requested by each to \$3.75 million each.<sup>108</sup> This decision was informed by Infrastructure's advice (requested by the Minister) on approaches to funding that would allow the Minister's 'preferred' projects to receive funding with the \$20 million available.<sup>109</sup> There is no indication that analysis or inquiry was undertaken by Infrastructure with the proponents of these projects to gauge the impacts of reduced funding on the overall viability of the projects. Rather, the department's advice to the Minister was that it considered:

a reduction of only \$250 000 out of \$4 million should be able to be managed by the proponents. A revised scope or work schedule could be negotiated between the applicant and the department prior to the signing of Funding Agreements and Project Agreements.

**5.42** An examination of the agreements for these three projects<sup>110</sup> indicates that the project viability risks around agreeing to provide \$250 000 less in funding were either:

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107 The state electorate of Marrickville is held by the Minister's spouse.

108 The three Projects were: Rockingham Strategic Regional Centre Renewal; Green Square Town Centre 'Trigeneration'; and Parramatta River City Renewal.

109 This advice was provided in Infrastructure's briefing to the Minister, which he signed on 2 April 2012.

110 Examination was based on the draft agreement for the Parramatta River City Renewal project as it had not been executed as at end April 2013.

- accounted for by the applicant in the final agreement; or
- not reflected in the agreement at all (to the extent the applicant has not provided further funding and it is not evident that the scope of the project has changed in the agreement).

**5.43** The Minister also approved significantly reduced funding for the Vibrant Adelaide project from the \$4 million requested to \$1 million. The advice from Infrastructure on funding approaches did not refer to this project, nor had it recommended the project for funding. The Minister's record of his decision to approve the project did not mention the reduced funding. However, other departmental records indicate that it had been the Minister's intention to approve a reduced amount.<sup>111</sup> The reduction in funding culminated in the project being substantially re-scoped, as is discussed in the following section.

### **Approval of Vibrant Adelaide project and subsequent approval of re-scoped project**

**5.44** The Minister approved funding of \$1 million for Vibrant Adelaide and rejected Infrastructure's recommendation to fund a higher ranked South Australian project for \$1 million. Under Regulation 9, one of the obligations on an approver is 'making reasonable inquiries' to be satisfied that giving effect to the spending proposal would be a 'proper use' of Commonwealth resources.

**5.45** Departmental records suggest that the Minister, or his office, made at least two inquiries in late March 2012 prior to approving Vibrant Adelaide (these were in addition to the formal briefing material provided by Infrastructure). One of these inquiries was with a South Australian State Minister, as previously discussed in paragraph 5.33. The other was an inquiry by the Minister's office to Infrastructure seeking additional information behind the low score awarded to Vibrant Adelaide against criterion 5. The department advised the Minister's office that the application had received:

- a score of two out of five for criterion 5 (funding) because 'the claims of applicant and partner funding were not supported by evidence and were also vague and inconsistent'; and

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<sup>111</sup> From Infrastructure records it appears that the decision to allocate only \$1 million in funding to Vibrant Adelaide was made prior to the Minister signing the approval.

- a score of three out of five for criterion 4 (deliverability) because ‘there were not strong claims or supporting evidence of how the project would be delivered (e.g. there was no detailed timeline).’

**5.46** In this context, Infrastructure advised the Minister’s office that, having completed the assessment process and provided advice, the department did not propose to reopen the assessment process for Vibrant Adelaide, for example by asking for further information about the project from the South Australian Government. This approach was consistent with the Strategic Review of Grants, which stated:

It should no longer be acceptable ... for a Minister to ask the department to restructure its advice and recommendations to accord with the Minister’s views and preferred outcomes; or for a department to ‘retro-fit’ its documentation or records merely to comply with a Minister’s wishes or proposed changes ...<sup>112</sup>

**5.47** Rather, the department advised that if the Minister preferred Vibrant Adelaide then an appropriate approach would be for the Minister’s office to record the reasons for the decision in a file note and the Minister could then annotate the approval minute accordingly. As was outlined in Table 5.1, the Minister made the following annotation on the brief he signed on 2 April 2012: ‘With approval for Vibrant Adelaide instead of Communities Around Stations after discussions and correspondence from SA Govt.’

*Project re-scoped to become Hindley Street Redevelopment*

**5.48** As a consequence of the reduction in funding approved from that requested, the Vibrant Adelaide project was re-scoped to become the Hindley Street Redevelopment project. The changes were substantial. For example, the proposed total cost of the project was reduced from \$29 million to \$4 million, new project costings were submitted, a new partner was added to the consortium (the University of South Australia), the contributions of pre-existing partners were reduced and the scope was narrowed to a distinct location (Hindley Street).

**5.49** These high-level changes were determined during the period between the approval of the funding on 2 April 2012 and the public announcement of

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112 Strategic Review of Grants, op. cit., p. 8.

the funding decision on 4 May 2012.<sup>113</sup> ANAO sought advice from Infrastructure as to how the re-scoping was negotiated between these dates, including the respective roles of the department and the Minister's office. The department's response of March 2013 did not clarify the pre-4 May negotiation process. The response did, however, confirm that the department negotiated the project's details with the successful applicant over the period May to August 2012.

### *Approval of the re-scoped project*

**5.50** The degree to which the project changed in scope gave rise to a new spending proposal triggering the requirements of the FMA Regulations. Accordingly, on 12 November 2012, the Minister signed a departmental brief to approve \$1 million in funding for the Hindley Street Redevelopment project (by implication, superseding the previous decision to approve \$1 million for Vibrant Adelaide).

**5.51** In the brief to the Minister, Infrastructure recommended that he approve the spending proposal and provided assurance that funding Hindley Street Redevelopment accorded with FMA Regulation 9. In doing so it:

- made reference to some of the requirements under the LCP guidelines<sup>114</sup>;
- stated that the project met the objectives of LCP; and
- stated that the project met the requirements of Regulation 9, thereby constituting a proper use of Commonwealth resources.

**5.52** With respect to the basis of the above advice to the Minister, Infrastructure advised ANAO in March 2013 that after extensive consultation it was satisfied that Hindley Street Redevelopment met the objectives of LCP. Infrastructure also advised ANAO that:

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<sup>113</sup> On 4 May 2012, the Minister issued a joint media release with the Hon Kate Ellis MP (the Member for Adelaide) announcing the \$1 million in funding and associating it with the redevelopment of Hindley Street. A media release put out the same day by the Adelaide City Council announced that the Council, the state government, University of South Australia and LCP were each contributing \$1 million to the redevelopment of Hindley Street.

<sup>114</sup> The brief to the Minister stated that 'the project also provides a good example of cooperation between all levels of government and includes a significant third party'. This is not inconsistent with the second assessment criteria in the LCP guidelines.



Ministers had agreed that this project would proceed. DITs role was to negotiate a suitable project scope that was consistent with the funding envelopes and the program guidelines objectives.

**5.53** Infrastructure did not assess the re-scoped project against the assessment criteria outlined in the LCP guidelines nor undertaken a construction viability assessment.

## Conclusion

**5.54** Considerable improvement was evident in the approach taken by Infrastructure to briefing its Minister on the outcomes of the application assessment process, compared with other Infrastructure-administered grant programs examined by ANAO in recent years. In particular, the department provided the Minister with a clear funding recommendation that outlined, based on the results of the eligibility checking and merit-assessment processes, those applications that were considered to best contribute to the achievement of the program objectives.

**5.55** Further, a record was made of those instances where the Minister decided not to approve some of the recommended applications, and approve some of those projects not recommended for funding.<sup>115</sup> It is open to a Minister to reach a decision different to that recommended by the agency. In such instances, it is expected that the recorded reasons for the decision would relate to the published program guidelines (including the relative merits of competing proposals in terms of the assessment criteria).

**5.56** The Minister had rejected four recommended projects on the basis of preferring to fund three projects that had not been recommended. For one of the projects approved but not recommended, the recorded reason was relevant to the criteria and policy objectives and the project was selected over two recommended projects (being an equally ranked project and a lower-ranked project). Conversely, the recorded reasons for funding two other projects that had not been recommended did not relate to the program guidelines. In one case, a lower-ranked project was approved over a higher-ranked project in Adelaide after taking into account the expressed preferences of a South Australian Minister. In the other case, a stream one project was approved over a stream two project, taking account of the preferences of a Tasmanian

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<sup>115</sup> These projects are identified in Table 5.1



Minister in favouring an application submitted by his government over another Tasmanian project submitted by a council (both state and local governments were eligible to compete for funding). The program guidelines did not provide for state government views to be sought, and this approach was not adopted in respect to other states.

**5.57** In summary, the Minister approved 19 stream one (planning and design) projects for a total of \$5.56 million and seven stream two (demonstration) projects for \$14.44 million. The Minister later withdrew his approval of \$500 000 for a stream one project that had been recommended for funding.<sup>116</sup>

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116 No reason was recorded by the Minister, nor was this required. The project was located in a state electorate that would be held by the Minister's spouse following a proposed redistribution of electoral boundaries. See further at paragraphs 5.36 to 5.38.

## 6. Grants Reporting, Funding Distribution and Feedback to Applicants

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*This chapter provides an overview of the announcement and reporting of funding outcomes, the distribution of funding and the provision of feedback to applicants.*

### Introduction

**6.1** The July 2008 report of the Strategic Review of Grants identified effective disclosure and reporting requirements as being important for the Government's own purposes, as well as to engender public and parliamentary confidence in the quality and integrity of grant program administration.<sup>117</sup> In this context, the ANAO examined the approach taken to announcing the funding outcome and to fulfilling the mandatory reporting requirements.

**6.2** The CGGs recognise that the geographic and political distribution of the funding awarded may be seen as indicators of the general equity of access to a program, as well as its effectiveness in targeting funding in accordance with the stated policy objectives of the program. Equity, transparency and accountability are also promoted through effective complaints handling mechanisms and providing opportunities for unsuccessful applicants to obtain feedback on the assessment of their proposals. Therefore, ANAO examined the distribution of funding, the advice that was provided to unsuccessful applicants and the review avenues made available to them.

### Announcement of funding decisions

**6.3** As has been previously noted by ANAO, while it is recognised that governments may choose the timing of funding announcements to suit their purposes having regard to other priorities, as a matter of good practice, it is preferable for all decisions on successful or unsuccessful projects to be announced together, or within a relatively short period of time.<sup>118</sup> One benefit of this approach is that it avoids the perception that the timing of an announcement was for political purposes.

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<sup>117</sup> Strategic Review of Grants, op. cit., p.10.

<sup>118</sup> For example, see ANAO Better Practice Guide, op. cit., p. 83.

**6.4** The public announcements of successful LCP projects were staggered over the period 4 April to 18 May 2012.<sup>119</sup> That is, the first announcement of a successful project occurred two days after the Minister made his funding decision. However, it then took more than six weeks to complete the process of announcing the successful applications.

## Reporting requirements

**6.5** As was discussed in paragraphs 2.14 to 2.20, the program guidelines distinguished between the types of LCP payments made to state and territory governments—being FFR payments—and those made to local governments—being grant payments. One effect of this distinction is the divergent reporting obligations that are placed on the Minister and on Infrastructure depending on the nature of the funding recipient.

### Reporting obligations on Ministers

**6.6** The Minister, as a member of the House of Representatives, is required by the CGGs to report to the Finance Minister instances where he approves a grant within his own electorate. The Minister is also required to report annually by 31 March to the Finance Minister on any instances where he approved a grant not recommended by Infrastructure, including the basis for his decision. These two requirements do not apply where the Minister approves an application that will involve payments made for the purposes of the FFR Act.

**6.7** The Minister did not approve any LCP projects located within his own electorate. He did, however, approve funding for three projects that had not been recommended by Infrastructure.<sup>120</sup> Of these, two involved payments being made under the FFR framework because the recipients were state governments. Consequently, the Minister was only required to report to the Finance Minister on one of the three instances—being the approval of the Parramatta River City Renewal project.<sup>121</sup> However, the advice provided by the

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119 Successful applicants received a letter signed by the Minister and dated 2 April 2012, advising them that their project had been approved for funding and asking that the details be kept confidential until an announcement is made by an Australian Government representative.

120 The Minister also decided not to approve funding for five projects that Infrastructure had recommended. There are no reporting obligations in circumstances where a Minister does not approve funding for a recommended project.

121 See Table 5.1 for a breakdown of the decisions of the Minister that differed from the recommendations of Infrastructure.

Minister to the Finance Minister with respect to grants awarded in the 2012 calendar-year was that the Minister did not approve any grants that Infrastructure had recommended be rejected.<sup>122</sup> The ANAO advised Infrastructure in April 2013 that the CGGs required the Minister to report the decision to fund the Parramatta River City Renewal project. In May 2013, the department noted the ANAO's advice but did not indicate what, if any, action would be taken to correct the report.

## **Reporting obligations on agencies**

### *Web-based reporting of executed grant agreements*

**6.8** In accordance with the requirements of the CGGs, Infrastructure has reported the executed LCP grant agreements on the 'Grant Reporting' page of its website, including providing the mandatory information. Again highlighting the implications of having LCP payments to state or territory government defined as FFR payments, the information published on the 'Grant Reporting' page does not extend to the executed project agreements. In this context, assuming all 24 agreements being negotiated by the department become finalised, the department would only be required to publish the mandatory information on its website with respect to 17 (71 per cent) of them.

**6.9** On the LCP page of its website, Infrastructure has chosen to publish a description of each project approved for LCP funding, including those where the recipient was a state or territory government. It identifies the proponent, the grant value, the amount being contributed by others, whether the agreement has been executed, and whether the project has been completed.

### *Website publication of executed project agreements*

**6.10** A mandatory requirement that only applies to the LCP agreements executed with state and territory governments is for Infrastructure to publish the executed project agreements on the Standing Council on FFR website.<sup>123</sup> This requirement is for public accountability and transparency reasons.<sup>124</sup>

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122 Where in the context of a competitive grants program an agency makes a clear recommendation to fund certain projects over others then, by definition, the agency is recommending that the other projects be rejected.

123 The Standing Council on Federal Financial Relations website is at < <http://www.federalfinancialrelations.gov.au> >.

124 Federal Financial Relations Circular No. 2011/03, *Processes for Drafting, Negotiating, Finalising and Varying Agreements under the Federal Financial Relations Framework, and Related Estimates and Payments Processes*, December 2011, p. 13.

**6.11** Infrastructure published the executed project agreements as required. The information published on the Standing Council on FFR website, combined with that provided on the LCP and grants reporting pages of its own website, goes some way toward achieving the goal of effective disclosure. However, the effectiveness is reduced by the information being dispersed across three locations, each being different in nature and content.

#### *Annual Report requirements*

**6.12** The *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, approved by the JCPAA, requires agencies to list all grant programs administered by that agency in their Annual Report. Also, to state that information about the individual grants awarded in the previous financial year is available on the agency website. Infrastructure fulfilled this requirement in its 2011–12 Annual Report with respect to LCP.

#### *Parliamentary reporting requirements*

**6.13** The Senate requires Ministers to report to it on grants approved in the intervening period since the previous Senate Estimates hearing, no later than seven days prior to the estimates hearing.<sup>125</sup> This requirement was not met in relation to LCP grants. That is, the report prepared by the department, and then provided to the Senate by the Minister, did not list the LCP grants approved during the reporting period from 24 January 2012 to 30 April 2012.

**6.14** The Senate also requires the listing of contracts and funding agreements of \$100 000 or more on agency websites, and sets out mandatory timeframes and content for the listing.<sup>126</sup> In August 2012 and again in February 2013, the Minister advised the Senate that the list would be placed on Infrastructure's website. However, the lists published on Infrastructure's website for the stated purpose of complying with the Senate's requirements did not list the LCP funding agreements, nor was the mandatory information found elsewhere on the website.

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<sup>125</sup> *Procedural Order of Continuing Effect 14: Departmental and agency grants*, also known as Senate Order 95 or the Minchin Order.

<sup>126</sup> *Procedural Order of Continuing Effect 11: Departmental and agency contracts*, also known as Senate Order 192 or the Murray Motion.

## Funding distribution

**6.15** The LCP guidelines stated that funding approval was at the discretion of the Minister, taking into account the overall mix of projects to be funded. The Minister approved a total of \$20 million to fund 26 projects<sup>127</sup>, which are listed in Appendix 2.

**6.16** In relation to the mix of locations achieved, applications were received relating to projects located in all 18 eligible major cities and projects awarded funding were located in (or benefited) 14 of these.<sup>128</sup> There were no projects approved in Cairns, Gold Coast-Tweed, Toowoomba or Wollongong. Out of the 18 major cities, Melbourne had the most projects funded (five projects) and Sydney was awarded the most funding (\$8 million in total for three projects).

**6.17** With respect to the seven demonstration projects approved for funding, the project types included: energy projects; residential development; cycling; pedestrian; and development of other transport networks. Three of the seven selected projects covered more than one of these project types. Overall, the nature of the demonstration projects, and the distribution of funding in geographic terms, provided the desired mix foreshadowed in the program guidelines.

**6.18** Projects submitted by state and territory governments had a higher success rate (31 per cent) compared with local governments (12 per cent).<sup>129</sup> In terms of the proportion of the 170 applications submitted, compared with the 26 approved, by applicant type:

- 15 per cent of the applications submitted, and 31 per cent of those approved, were from state and territory governments;
- 70 per cent of the applications submitted, and 50 per cent of those approved, were from local governments operating in a capital city; and

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127 The Minister later reversed his approval of one project, thereby reducing the total amount awarded to \$19.5 million for 25 projects.

128 These 14 major cities include Townsville; however, the successful applicant withdrew prior to an agreement being entered into.

129 Factors influencing the higher success rate include that: applications from state/territory governments achieved the highest average-score for each of the eight assessment criteria (see paragraph 4.42); and that two of the Minister's funding decisions were informed by the preferences of state ministers, which resulted in approval of a state government application over the local government application that had been recommended by Infrastructure (see paragraph 5.32).

- 15 per cent of the applications submitted, and 19 per cent of those approved, were from other local governments.

## **Electorate distribution**

**6.19** The Minister did not approve any grants within his own electorate. However, as noted by ANAO in an earlier audit<sup>130</sup>, where audit reports or public commentary has raised questions about the political distribution of grant funding, the concerns raised have generally related to a wider issue than grants approved by a Minister in his/her own electorate. Specifically, the concern has more often been whether the total distribution of approved grants under a particular program has favoured the party in government, rather than just the electorate of the particular Minister who was making the decisions.

### *Electorates eligible to receive funding*

**6.20** LCP funding was only available for projects located in the 18 major cities that are the subject of the National Urban Policy<sup>131</sup>, and the local government areas covered by these cities involved 127 of the 150 Federal electorates.<sup>132</sup> In this context, compared with the proportion of seats in the House of Representatives, there were proportionally more Australian Labor Party (ALP) held electorates that were eligible to receive funding than those held by the Coalition.

**6.21** Specifically, at the time of the funding round, the ALP held 48 per cent of the 150 electorates, but held proportionally more urban than regional electorates. As a result, 67 (53 per cent) of the electorates covered by local government areas eligible for LCP funding were held by the ALP. By way of comparison, 44 per cent of the electorates covered by local government areas

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130 ANAO Audit Report No. 21 2011–12, op. cit., p. 81.

131 This approach to eligibility is stronger than that adopted for the regional-focused funding available under the Regional Development Australia Fund (RDAF). Specifically, in designing the RDAF program, it was decided that eligibility for funding should not be restricted to projects located in, or that benefit, regional Australia. This was reflected in the published program guidelines by not excluding from eligibility any applications that related to areas other than regional Australia. Around one-quarter of funded projects in the first RDAF funding round were located in major cities rather than regional Australia. See further in ANAO Audit Report No.3, 2012–13, *The Design and Conduct of the First Application Round for the Regional Development Australia Fund*, Canberra, 19 September 2012, pp.109–112.

132 The number of eligible local government authorities operating within the different cities and states varied considerably. For example, 43 local government authorities eligible to apply for LCP were located in Sydney, compared with five local government authorities located in Brisbane. For NSW, 56 local government authorities were eligible to apply for funding; whereas for Queensland only 10 local government authorities were eligible to apply for funding.



eligible for LCP funding were held by the Coalition (compared with the 49 per cent of total electorates the Coalition held). There was no significant difference between the proportion of electorates held by the Australian Greens or Independents that were eligible for LCP funding compared with the proportion of seats held in the House of Representatives.

#### *Funding recommended and awarded*

**6.22** There were no indications from the departmental records that Infrastructure had considered electorate locations of projects in its assessment processes. Further, the departmental briefings provided to the Minister to inform his funding decision did not include electorate information, apart from advising the Minister that none of the recommended projects were located in his electorate (in the context of the own-electorate reporting obligation).

**6.23** In electorate terms, those projects assessed, ranked and recommended by Infrastructure as the most meritorious predominantly related to projects located in electorates held by the ALP. In this respect, as illustrated by Table 6.1, 19 of the applications recommended for approval included project activities located in electorates held by the ALP. This comprised:

- 14 applications, with a total recommended grant value of \$14.19 million, located solely in one or more ALP-held electorates;
- four applications, with a total recommended grant value of \$2.68 million, located across electorates held by the ALP and the Coalition; and
- one application, with a recommended grant value of \$500 000, located across electorates held by the ALP, the Coalition and an Independent.

**6.24** Similarly, the majority of the 26 projects approved by the Minister on 2 April 2012, and the significant majority of funding approved, involved projects located in one or more ALP-held electorates. Specifically, 18 applications approved for a total of \$18.11 million included project activities located in electorates held by the ALP. This was comprised of:

- 14 applications, with a total awarded grant value of \$15.94 million, that were located solely in one or more ALP-held electorates;
- three applications, with a total awarded grant value of \$1.68 million, located across electorates held by the ALP and the Coalition; and
- one application, with a total awarded grant value of \$500 000, located across electorates held by the ALP, the Coalition and an Independent.



**Table 6.1: Distribution of LCP projects and funding by political party**

Party holding the electorate/s in which the project was located	Applications received		Applications recommended		Applications approved	
	# (%)	\$m (%)	# (%)	\$m (%)	# (%)	\$m (%)
Australian Labor Party	108 (57%)	96.85 (61%)	19 (56%)	17.36 (73%)	18 (56%)	18.11 (78%)
Coalition	71 (37%)	49.39 (31%)	10 (29%)	4.63 (19%)	9 (28%)	3.63 (16%)
Australian Greens	4 (2%)	7.00 (4%)	Nil	Nil	Nil	Nil
Independents	7 (4%)	5.95 (4%)	5 (15%)	1.84 (8%)	5 (16%)	1.44 (6%)
<b>Total</b>	<b>190</b>	<b>159.19</b>	<b>34</b>	<b>23.83</b>	<b>32</b>	<b>23.18</b>

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

Notes: The number of applications and the funding amounts noted in the table against the political parties are greater than the number of applications received, recommended and funded to account for the 18 applications received for projects which crossed electorates held by different political parties. Six of these applications were recommended for funding and five were approved.

## Feedback to applicants

**6.25** The JCPAA has emphasised the importance of providing feedback to applicants as part of grants administration.<sup>133</sup> The LCP guidelines stated that applicants would be advised by letter of the funding outcome of their project and that details of approved projects would also be listed on Infrastructure's website. Successful applicants received a letter dated 2 April 2012, and unsuccessful applicants a letter dated 13 April 2012, advising them of the outcome of their application/s. Specific reasons for the outcome were not provided in the letters. However, applicants were advised to contact the liveable cities team if they wished to receive feedback.

**6.26** Infrastructure's records indicate that 38 applicants sought feedback. The department provided verbal feedback to each of these 38 applicants. A brief script was developed to assist officers providing the feedback. The records indicate that the feedback included details of the application's performance against the relevant assessment criteria. This is consistent with

<sup>133</sup> Joint Committee of Public Accounts and Audit, *Report 423: Review of Auditor-General's Reports Nos 39 2009–10 to 15 2010–11*, Canberra, July 2011, p. viii.

the ANAO Better Practice Guide, which notes that all unsuccessful applicants should be provided with full and actual reasons for the non-awarding of funding or with a reasonable opportunity to seek reasons from an agency.<sup>134</sup>

**6.27** Under the heading ‘complaints process’, the LCP guidelines provided an address for enquiries about funding decisions. This gave unsuccessful applicants an avenue for seeking a review of a decision, if they so chose. Infrastructure advised ANAO in March 2013 that no complaints had been received from applicants or other stakeholders about the LCP funding round outcome.

## Conclusion

**6.28** The outcomes of the LCP funding round were announced publicly, albeit over a six-week period.<sup>135</sup> All applicants were advised in writing of the outcome and unsuccessful applicants were given a reasonable opportunity to receive feedback. In addition, an avenue for submitting complaints or enquiries about funding decisions was made available to applicants but no complaints were received.

**6.29** The distribution of funding in geographic terms, and the nature of the demonstration projects, provided the desired mix foreshadowed in the program guidelines. In terms of political distribution, the majority of recommended and approved applications, and program funding, related to projects located in an electorate held by the Australian Labor Party. In this context, there were more electorates held by the Australian Labor Party that were eligible to receive funding.

**6.30** To help achieve transparency and accountability in government decision-making, agencies and Ministerial decision-makers are subject to a number of reporting requirements. However, the extent to which the reporting requirements could promote these principles was limited as a consequence of LCP operating under two financial frameworks. That is, only the LCP payments to the 18 local government recipients were defined as grants and so were bound by the ministerial and public reporting requirements under the

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<sup>134</sup> ANAO Better Practice Guide, op. cit., pp. 39–40.

<sup>135</sup> As a matter of good practice, it is preferable for all decisions on successful or unsuccessful projects to be announced together, or within a relatively short period of time.

CGGs.<sup>136</sup> As such, the Minister was required to report to the Finance Minister only one of the three instances where he decided to approve a funding proposal that had not been recommended by Infrastructure. However, the report for calendar-year 2012 did not identify any instances where the Minister had approved a grant not recommended by Infrastructure.

**6.31** Another consequence of operating under two frameworks is that details of LCP agreements with local government recipients were to be reported on Infrastructure's website, whereas the agreements with state governments were to be published on the Standing Council on Federal Financial Relations website. Having the information dispersed across multiple sites in this way reduces the efficiency and effectiveness of website publication as an accountability tool. This limitation was somewhat addressed by the department also choosing to publish the details of all LCP projects elsewhere on its website.

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<sup>136</sup> The LCP payments to state government recipients were defined as payments made for the purposes of the *Federal Financial Relations Act 2009*. Such payments are explicitly excluded from the definition of a grant. The JCPAA stated in Report No. 427, *Inquiry into National Funding Agreements*, that it shared the concerns of the Auditor-General regarding the interaction between the federal financial relations framework and the grants framework. It recommended that Finance examine the interaction between the new grants framework and grant payments delivered under the FFR framework, and proposed options to remove inconsistencies and improve governance arrangements for all grants provided to states and territories. See further at paragraphs 2.18 to 2.20.

## 7. Project and Program Delivery, and Evaluation

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*This chapter provides an overview of the development of agreements with the successful applicants and of the proposed arrangements for monitoring and evaluating program outcomes.*

### Background

**7.1** Following the reversal of one funding decision, a total of \$19.5 million was approved by the Minister to fund 25 projects under LCP. The expectation is that these funds would have been approved on the basis that they would contribute to achieving the stated objectives of LCP. That is, that they would improve the planning and design of major cities that are experiencing population growth pressures, and housing and transport affordability cost pressures.

**7.2** Accordingly, it is important that the approved LCP funds are administered by Infrastructure in a manner that will promote cost-effective and accountable achievement of those objectives. In this regard, key considerations include that:

- agencies should seek to engage and manage risks to the achievement of program objectives, including risks relating to individual grants;
- the agreement, which must be fully consistent with the terms of the decision-maker's approval, provides the mechanism for identifying the outcomes expected to result from an approved grant;
- effective planning of the strategy to be used in paying approved funds to recipients helps to ensure that relevant budgetary factors are taken into account and that there is appropriate observance of the obligation to make proper use of the public money involved, including appropriate management of the risk of fraud or non-completion of the project; and
- an essential component of any grant program is the establishment of an effective performance framework that enables the administering

agency to reliably establish the outcomes achieved through individual grants, as well as overall program outcomes of relevant risks.<sup>137</sup>

**7.3** In this context, ANAO examined Infrastructure’s development of agreements with the successful applicants as well as the arrangements proposed for monitoring and evaluating program outcomes.

## **Negotiation of grant agreements and project agreements**

**7.4** As was outlined at paragraphs 2.14 to 2.20, two different financial frameworks applied to the LCP following project approval. As previously observed by ANAO, operating a single program under two frameworks creates administrative inefficiencies for agencies, as each framework involves a different type of funding arrangement and payment process. The applicable framework was determined by the nature of the lead applicant even though, in some cases, the lead applicant proposed to pass on all or most of the funding to a different type of entity that was undertaking the activities.

**7.5** Of the 25 applications approved, 18 had been submitted by local governments. Payments to local government applicants were defined as grants and recipients were to enter into grant agreements (also known as funding agreements). The other seven applications approved had been submitted by state/territory governments and were defined as payments made for the purposes of the FFR Act. These recipients were to enter into project agreements subject to the provisions of the IGA FFR. Project agreements are a type of arrangement under the IGA FFR appropriate for projects that are relatively low value and/or low risk. A comparison of the two types of agreements is at Table 7.1, with a focus on agency responsibilities.

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137 ANAO Better Practice Guide, op. cit., p. 86.

**Table 7.1: Comparison of responsibilities for LCP agreements**

Responsibility	Grant agreements under grant framework	Project agreements under FFR framework
Developing agreement template	Infrastructure	Ministerial Council on Federal Financial Relations
Negotiating agreement	Infrastructure	Infrastructure. However, it must consult with Commonwealth central agencies on draft project agreements before providing them to the States
Signing agreement on behalf of the Commonwealth	Authority had been delegated to Infrastructure officials	Minister for Infrastructure and Transport
Managing agreement and monitoring performance	Infrastructure	Infrastructure
Making payments	Infrastructure	Treasury, on the advice of Infrastructure
Budget estimates and financial reporting	Infrastructure. Funds are appropriated under Bill 2 and reported in the Infrastructure and Transport portfolio statements	Treasury, with input from Infrastructure. Funds are appropriated under the COAG Reform Fund Bill and reported in the Treasury portfolio statements

Source: ANAO analysis of grant framework and federal financial relations framework requirements in the context of the Liveable Cities Program.

## Timeliness of signing agreements

7.6 Infrastructure was responsible for negotiating agreements for 24 projects out of the 25 approved. In respect to the remaining approved project, the Townsville City Council declined the offer of \$300 000 for its Smart Community Structure Plan prior to the agreement being finalised. The offer was declined because partner funding for the project was no longer available from the Queensland Government following the March 2012 state election.

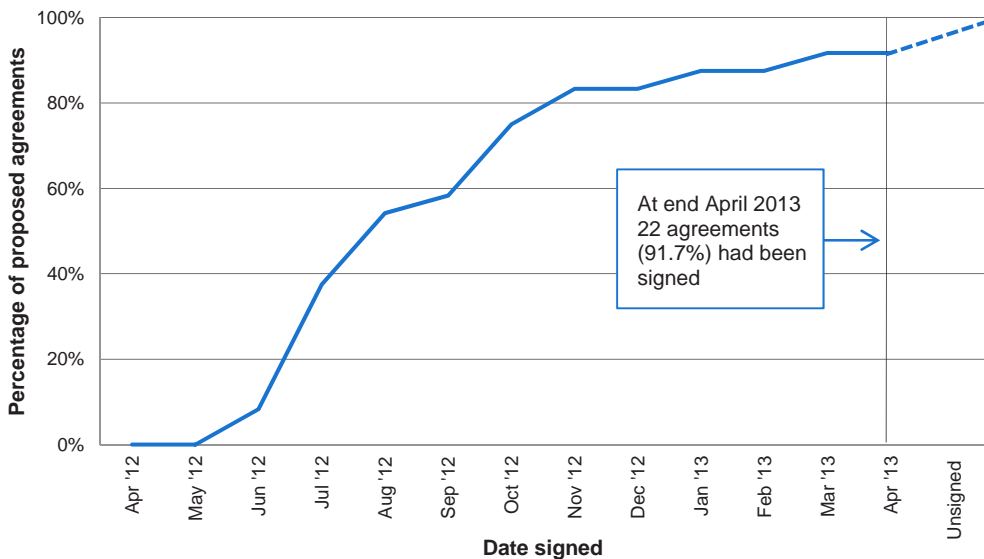
7.7 As per the indicative timeline published in the LCP guidelines, Infrastructure had sought to have the agreements finalised over April to May 2012, so as to have the \$10 million appropriated for 2011–12 paid by 30 June 2012. However, the process took considerably longer, with no agreements signed over April to May 2012, and no LCP payments made in 2011–12.

7.8 The cumulative percentage of the proposed 24 agreements signed since April 2012 is presented in Figure 7.1, which illustrates that, by end

April 2013—more than one year after the funding decisions were taken—there remained two projects (8.3 per cent) for which an agreement remained unfinalised. Further in this respect, by the end of April 2013, of the \$20 million appropriation:

- agreements had been signed for \$15.33 million;
- agreements had not yet been signed for \$3.87 million; and
- \$0.8 million remained unallocated (\$500 000 was due to the Minister reversing his approval of the Redfern Station Precinct project and \$300 000 was due to the Townsville City Council declining the funding offer).<sup>138</sup>

**Figure 7.1: Cumulative percentage of proposed agreements signed by month**



Source: ANAO analysis of Infrastructure records (signed and draft LCP agreements.)

## Timeframes of signed agreements

**7.9** LCP was originally due to end on 30 June 2013, as a two-year program. Strategies put in place to address the risk that the appropriation might not be spent by this date included: an eligibility criterion requiring applicants to

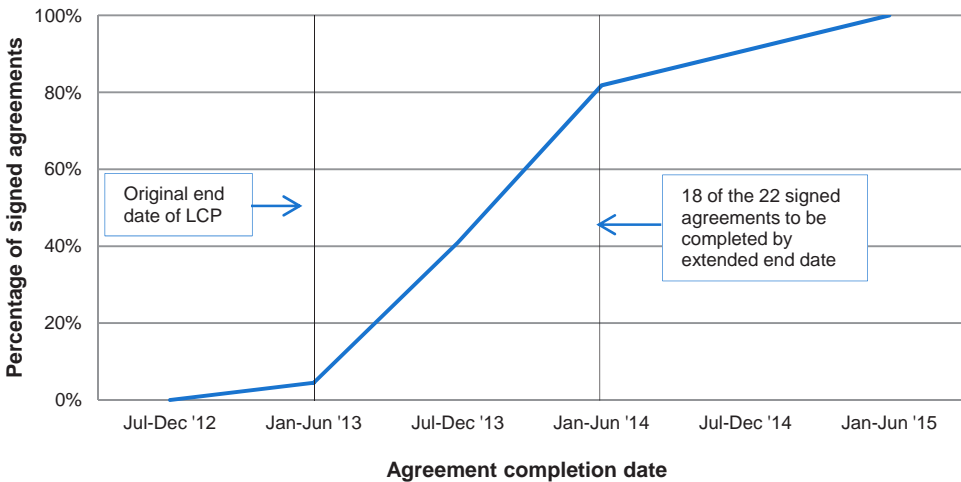
<sup>138</sup> A list of the projects approved for LCP funding is provided at Appendix 2, which includes information on the status of the agreement negotiation process as at end April 2013.

demonstrate that the Australian Government component would be completed by 30 June 2013; projects had to be ‘ready to proceed’; assessment criterion 4 (deliverability) included the capacity of applicants to deliver the component by 30 June 2013; and the construction viability assessments of high-ranking stream two projects included whether the project could be completed by 30 June 2013.

**7.10** However, it eventuated that the agreement for only one of the projects approved was scheduled for completion by 30 June 2013. This result raises questions about how informed and robust the assessment of applications was in respect to demonstrating completion by 30 June 2013, and the extent to which the delay in signing agreements impacted the schedule of works.

**7.11** LCP was extended to 30 June 2014 via a movement of funds approved on 21 June 2012. This enabled the majority of projects to be scheduled for completion prior to the program’s revised end date (as illustrated in Figure 7.2). While all payments fall due before 30 June 2014, four of the 22 signed agreements extend well beyond the program end date.

**Figure 7.2: Cumulative percentage of signed agreements due for completion per six-month period**



Source: ANAO analysis of Infrastructure records.

## Payment strategy

**7.12** For project-based grants, value for money and sound risk management are promoted by funds becoming payable only upon the demonstrated completion of work that represents a milestone defined in the signed



agreement. That is, if project work is not completed satisfactorily, no further funds are to be forthcoming. The timing and amount of each payment also needs to appropriately reflect the:

- cash flow required in order to progress the project, including consideration of whether funding contributions required from the proponent and other sources are being applied to the project at the same proportional rate as the Australian Government contribution;
- risk of non-performance of obligations, or non-compliance with the terms of the agreement. In particular, the Australian Government's capacity to influence project delivery can be expected to diminish once funds have been substantially paid; and
- cost to the Australian Government, through interest foregone, of payment of funds earlier than needed to achieve program objectives.<sup>139</sup>

## Front-end weighting of payments

**7.13** Based on the schedules in the 22 signed agreements, LCP payments tended to be weighted toward the early activities and the contributions from other parties toward the latter activities. For one project, for example, the \$3.75 million from LCP was for all of the activities up to 30 June 2013, and then the State Government's contribution of \$5.12 million was for works after this date—the last LCP payment was scheduled a year before project completion.

**7.14** The front-end weighting of the Australian Government's contribution to projects was adopted by Infrastructure as a budget management strategy. The department's approach is further explained in the following extract from an email it sent to an applicant during agreement negotiations:

The connection of specific milestones to Liveable Cities payments—rather than proponent or third party contributions—is driven somewhat by cashflow imperatives, and often on the basis that LCP funds are disbursed earlier in the project than the required matching proponent and third party funds.

### *Demonstration projects*

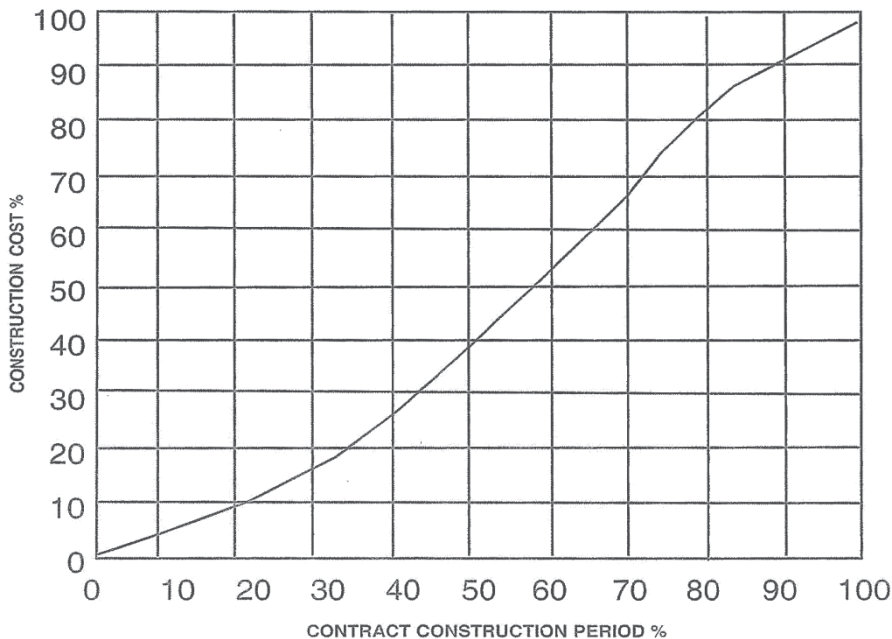
**7.15** As has been noted in earlier ANAO performance audits of programs that fund infrastructure construction projects<sup>140</sup>, expenditure on construction

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139 ANAO Better Practice Guide, op. cit., p. 92

projects typically follows a lazy 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 7.3).

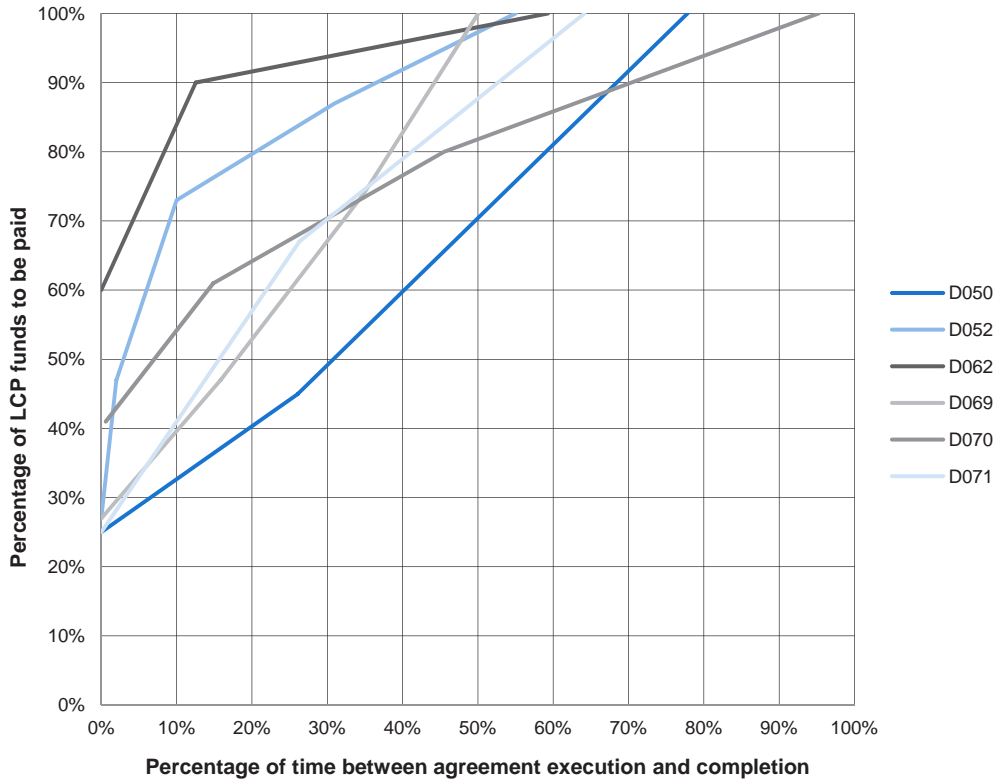
**Figure 7.3: Typical construction project cash flows**



Source: *Rawlinsons Australian Construction Handbook 2013*, p. 822.

**7.16** However, the scheduling of LCP payments for the demonstration projects does not reflect the typical situation found in respect of construction projects. In particular, an average of 34 per cent of the total grant was contracted to be paid at the commencement of the project (see Figure 7.4). In March 2013, Infrastructure advised ANAO that the ‘cash-flow for the program always envisaged that Australian Government funding may be front-loaded with proponent and partner funding to follow, particularly for demonstration projects’.

140 See: ANAO Audit Report No. 33, 2009–10, *Building the Education Revolution—Primary Schools for the 21<sup>st</sup> Century*, Canberra, 5 May 2010, paragraph 7.11; and 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*, Canberra, 27 July 2010, pp. 221–222.

**Figure 7.4: Payment profile of LCP demonstration projects**

Source: ANAO analysis of Infrastructure data (six signed LCP agreements for stream two projects).

## First and last scheduled payments

**7.17** It is a well recognised principle of sound financial management that payments should only be made in advance where there is a demonstrated net benefit in doing so. An initial payment of grant funding may be warranted in some instances, such as where the funding recipient has demonstrated that working capital is required from the Australian Government to initiate the project in a timely fashion. However, advance payments without a benefit to the Commonwealth may not be consistent with the obligation to make proper use of Commonwealth resources. This includes, for example, making payments in advance of need as a means of maximising program expenditure in a given financial year.<sup>141</sup>

141 ANAO Better Practice Guide, op. cit, pp. 92–93.

**7.18** For LCP, four of the 22 signed agreements involved payments upon execution of the agreement ranging from 25 to 50 per cent of the funding value.<sup>142</sup> Of the other signed agreements, one offered no payment upon completion of the first milestone, and the other 17 had first milestone payments ranging from 20 per cent to 60 per cent of the funding value. The proportion of the funds paid, however, did not necessarily reflect the proportion of the project delivered. For one grant agreement, for example, the first milestone requirement was to sign the agreement and commence the project, and the associated payment was 52 per cent of the funding value (which was paid notwithstanding that the applicant advised Infrastructure that ‘not much had been done’ other than two planning meetings).

**7.19** In relation to final milestone payments, it is also recognised as good practice to retain a portion of the funds until the recipient has completed the project and acquitted the grant. This provides an incentive for funding recipients to comply with all obligations set down in the agreement.<sup>143</sup> The final requirement of the LCP agreements was provision of a final project report and, for local government recipients, a financial acquittal. None of the 22 signed agreements had a payment associated with provision of the final requirements.

**7.20** Infrastructure advised ANAO in March 2013, that it:

structured milestones and associated payments in a manner appropriate to the relevant project and in order to meet overall project objectives. In most cases the final payment is connected to practical completion of the project, with final reports on financial acquittal and reporting on implementation not linked to payments.

**7.21** In reference to the reason for making significant first payments upon signing of the project agreements, Infrastructure’s advice to the ANAO in March 2013 was that:

It is also worth noting that Treasury encouraged [Infrastructure] to limit the number of milestones and subsequent payments for those projects (state/territory governments) that fell under a Project Agreement ... Contents of all project agreements with state/territory governments ... were considered

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<sup>142</sup> Paying a proportion of approved funding in advance upon execution of the funding agreement was a practice that had been commonly adopted by the former Department of Infrastructure, Transport, Regional Development and Local Government across a range of grant programs audited by ANAO.

<sup>143</sup> ANAO Better Practice Guide, op. cit., p. 93.

(in-line with requirements outlined under the Federal Financial Relations Circular 2011/03) and approved by both the Treasury and the Prime Minister [and] Cabinet Departments.

**7.22** According to departmental records, Treasury encouraged Infrastructure to reduce the number of milestones, reports and associated payments it had proposed. Treasury's advice is consistent with the conceptual framework for reporting under the IGA FFR, which states that, as project agreements 'are designed to implement lower risk and materially lower value initiatives', the requirements should be limited to a 'proportionate set of project milestones'.<sup>144</sup> However, in so doing, Treasury did not encourage or indicate support for Infrastructure's approach of making a large payment in advance of performance and of having no payment associated with the final deliverable.

**7.23** The advice Infrastructure received from Treasury on the draft project agreements included to reduce the value of the first milestone payments<sup>145</sup>, to weight payments more heavily towards later milestones and to allocate a payment to the final milestone. The advice also emphasized that 'milestones should have funding attached' and that 'signing the agreement is not an output and therefore cannot be used as a milestone'.

## Managing risk

**7.24** As mentioned in paragraph 7.2, agencies should seek to engage and manage risks to the achievement of program objectives, including risks relating to individual grants. Some risks can be managed through the funding agreement, but others are best managed prior to entering the agreement or, if they cannot be managed to an acceptable level, avoided by choosing a different course of action.

## Risks associated with third-party involvement

**7.25** Eligible organisations were encouraged to submit LCP applications in partnership with other organisations, known as a consortium arrangement.

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<sup>144</sup> The conceptual framework supports performance reporting under the Intergovernmental Agreement on Federal Financial Relations. It was prepared by the Heads of Treasuries and endorsed by COAG in February 2011.

<sup>145</sup> In some of the draft project agreements submitted to Treasury for comment, Infrastructure had proposed higher initial payments than appeared in the signed agreements—including a \$2 million payment representing 53 per cent of the funds.

While the involvement of third-parties in a funded activity was desirable from a policy perspective, there are associated risks that need to be identified and managed.

**7.26** Particular risks are involved with entering into an agreement with a consortium that does not have the capacity to enter into agreements as a single entity. These risks were addressed in LCP by the Commonwealth only entering into an agreement with the lead applicant (a single legal entity).

**7.27** Where a consortium member's involvement can impact project delivery, viability or outcomes, then consideration should be given to strategies that reduce the risk of non-performance by consortium members. These may include recognising the members in the grant agreement as the lead's subcontractors, requiring evidence of the relationship between the consortium members, and/or requiring evidence of their individual commitments to the project. On a case-by-case basis, consideration can beneficially be given to the extent to which individual consortium members should be required to comply with terms equivalent to those in the grant agreement, and the extent to which individual members should be required to report on their use of the funding and repay any funding that they misspend or do not spend.<sup>146</sup>

#### *Legal arrangements between consortium members*

**7.28** The LCP guidelines specified that 'Consortia need to be supported by appropriate legal arrangements and these arrangements need to be in place prior to project funding being provided.' The FAQ document expanded on this, explaining that 'A consortium needs to demonstrate appropriate governance arrangements, such as an MOU, and these arrangements need to be in place prior to finalising contractual arrangements with the Department.' However, Infrastructure did not require legal/governance arrangements to be in place between consortium members prior to finalising the agreements. Infrastructure advised ANAO in March 2013 that it:

notes that the guidelines state that in the case of consortia, '*appropriate legal arrangements*' should be in place before funding was provided. Across all projects, [Infrastructure] made judgements, based on relative risks about what

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146 Potential risks and treatments relevant to consortium type arrangements are discussed in: Australian Government Solicitor, Legal Briefing 99, *Commonwealth Grants: An Overview of Legal Issues*, 14 May 2013, pp. 12 and 15.

legal arrangements were appropriate between partners in any consortia. We noted, in particular, the ability to seek redress from state, territory and local government proponents, with which we had direct legal relationships through the funding agreements. Where there was little uncertainty about third party commitments, [Infrastructure] did not seek to hold up projects by insisting on overly prescriptive arrangements. However, where appropriate, additional legal certainty was gained at the relevant stage of the project. [Emphasis as per original.]

**7.29** The approach taken did not adequately manage risks to the Commonwealth. For example, one of the approved projects involved a consortium of the state government and six local governments, including the City of Greater Geelong. At the time of submitting the application, the City of Greater Geelong had expressed interest via an email but had not yet confirmed participation in, or a contribution to, the project. The agreement for this project was signed on 2 October 2012 and the first payment approved on 18 October 2012 prior to Infrastructure confirming that the City of Greater Geelong had agreed to participate in the project.

*Management of risks where a third-party is undertaking the project*

**7.30** When entering into an agreement with the lead of a consortium, consideration should be given to the level of control and responsibility the lead is willing and able to take for the activity that is being funded.<sup>147</sup> For three of the LCP projects, the agreement was not with the party that had primary control over project delivery. Instead, the agreements were with a lead applicant that intended to pass on the grant funds to a third-party undertaking the activities. In two of these cases, the third-party was not itself an eligible applicant.<sup>148</sup> In the other case, the third-party was LandCorp (the Western Australian Government), which had also received \$3.75 million in LCP funding directly as the lead applicant for a different project.

**7.31** This issue has previously been raised by ANAO in the context of an earlier audit of a grant program administered by a predecessor department to Infrastructure. It included projects that were substantially being undertaken by LandCorp, with the relevant council lodging the funding application so as to

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<sup>147</sup> Australian Government Solicitor, op. cit., p. 13.

<sup>148</sup> There were no eligibility requirements on third-parties. However, as it is expected that the eligibility requirements flow down from the program's policy objectives, it is questionable whether having an ineligible party as the key beneficiary of the funding fulfils the Liveable Cities Program objectives.



meet program eligibility requirements. In the report of that audit the ANAO observed:

Projects that were being substantively undertaken by an ineligible organisation (such as State Government) have been approved for Regional Partnerships funding on the premise that the application was submitted by an eligible organisation (such as a Local Government Authority). However, in many cases, this approach did not reflect the realities of the project management arrangements, with the Council 'applicant' acting as little more than a conduit for the Regional Partnerships funds to flow to the State Government entity actually undertaking the project.<sup>149</sup>

**7.32** This issue was also raised more recently in relation to a grant program administered by Infrastructure, in ANAO Audit Report No.7 2011–12.<sup>150</sup>

**7.33** In respect to one of the LCP projects being undertaken by a third-party, Infrastructure sought advice from its internal legal services team on the draft grant agreement. The project was the Logan Central Affordable Housing demonstration project and the third-party was a not-for-profit organisation (Horizon Housing) that would manage the activities, contribute 48 per cent of the total project costs, and own the resulting six-unit complex. The Logan City Council was to pass on the entire \$689 038 grant to Horizon Housing. The legal advice received on 18 June 2012 included an overview of concerns relating to the third-party involvement, with the key risk being that the Commonwealth may have little or no legal recourse to recover funding (or take other action) under the agreement if the third-party does not perform the project as envisaged.

**7.34** To treat the identified risks, the legal services officer drafted changes to the grant agreement. None of these changes were incorporated into the final agreement in full or in part. Another suggestion made by the legal services officer was to move the requirement for the Council to enter into a legal arrangement with Horizon Housing forward (from the second to the first milestone) given the high level of risk to the Commonwealth associated with the work to be undertaken by this third-party. Again this suggestion was not acted upon.

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149 ANAO Audit Report No. 14 2007–08, *Performance Audit of the Regional Partnerships Program*, Volume 2—Main Report, Canberra, 15 November 2007, pp. 154–156.

150 See ANAO Audit Report No.7 2011–12, *Establishment, Implementation and Administration of the Infrastructure Employment Projects Stream of the Jobs Fund*, Canberra, 22 September 2011, pp. 188–190.



**7.35** Infrastructure's approach does not sit comfortably with the guidance provided to agencies through the CCGs. The CCGs outline that the appropriate form and content of a grant funding agreement should be implemented based on a range of factors including an analysis of risk and legal advice (where appropriate) and, whatever the form chosen, it should protect the Commonwealth's interests.<sup>151</sup> Given the significance of this matter, ANAO sought advice from Infrastructure as to why it was not considered appropriate to incorporate the legal advice. Infrastructure's response in March 2013 was that:

One of the legal adviser's main issues related to strengthening Logan's legal arrangements with Horizon Housing through elevating the arrangement from an MOU to a contract. This was achieved. Furthermore, it should be noted that Logan's contract with Horizon has the executed Commonwealth Funding Agreement with Logan as an Annexure, and as a further safeguard, includes a statement in Annexure 1 that the funding agreement between the Australian Government and Logan City Council (Annexure 2) forms part of the agreement between Logan City and Horizon Housing and is included as Annexure 2 to the agreement.

The Department considered this to be an adequate safeguard against potential risks with the delivery of the project, hence the decision to not include Item P and other references to Item P in associated clauses in the agreement.<sup>152</sup>

In relation to the timing of the additional legal arrangements between Horizon and Logan council ... [Infrastructure] notes that more time was required to meet council's contract approval processes, which were not required for an MOU. This could not practically be achieved before milestone 2.

**7.36** However, it is unclear how the decision Infrastructure made in June 2012 to not accept legal advice on the draft grant agreement, could have been based on events that occurred some two months later (that is, be based on the applicant choosing to incorporate the signed grant agreement within a legal arrangement with Horizon Housing in August 2012). The department had paid \$285 000 (41 per cent of the total grant) to the Council to pass on to

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151 CCGs, op. cit., p. 21.

152 The legal adviser's suggestions included adding a new Item P in the Schedule. The proposed Item P set out certain 'third party conditions' relating to the management and use of the asset by Horizon Housing (as asset owner) so that the legal protections normally afforded to the Commonwealth in its contractual dealings in relation to assets would therefore be extended to apply to Horizon Housing.

Horizon Housing to buy land prior to the legal arrangement being executed with Horizon Housing.

### **Implementation of risk treatments as advised to Minister**

**7.37** When recommending LCP projects to the Minister for funding, Infrastructure advised that it would manage risks through strategies that included 'milestone payments upon delivery of outcomes'. However, as mentioned at paragraph 7.18, four of the 22 signed agreements involved initial payments made in advance of delivery.

**7.38** For the 11 stream two projects listed in funding option A and/or option B, Infrastructure also advised the Minister of specific treatments it would implement to address the risks identified in the relevant construction viability assessment (CVA) were the project to be approved. Infrastructure explicitly stated that each treatment would be implemented prior to signing the agreement.

**7.39** ANAO examined the handling of the five stream two projects which had both specific treatments identified and an agreement in place (as at end April 2013). In respect of these five projects, Infrastructure had advised its Minister that it would undertake a total of twelve treatments to address the risks identified in the CVAs. Based on departmental records, Infrastructure had implemented four of the twelve treatments prior to signing the agreements.

**7.40** Agreements entered into must be consistent with the terms of the approval given under FMA Regulation 9, including any conditions on the approval. Where Infrastructure did not undertake the risk treatments it had proposed to the Minister in the context of approving spending proposals, then the agreements entered into would not be consistent with the terms and conditions of the approval.

**7.41** In May 2013, Infrastructure advised the ANAO that:

We would stress that the Department took appropriate steps to address these risks in all cases. In particular, costs, budgets, timelines and partner contributions were negotiated and confirmed before signing all agreements. The Department disagrees with the ANAO's comments to the effect that funding agreements were signed outside the authority of the Minister's approvals.

*Risks and treatments relating to residential development projects*

**7.42** Two of the approved stream two projects involved the construction of residential units. These were the Logan Central Affordable Housing and the Rockingham Strategic Regional Centre Renewal<sup>153</sup> projects.

**7.43** A risk identified in the CVA for the Logan Central Affordable Housing project related to sales revenue figures being based on the sale of only four of the six units to be constructed. Given the surplus that would result from the sale of all six units, and as it was an affordable housing project, the CVA suggested the Australian Government consider negotiating a more affordable outcome for prospective tenants as a condition of approval. Infrastructure advised the Minister that, to help treat this risk, it would obtain an update of the calculated sales revenue figure to include the sale of six units instead of four prior to entering the agreement. This treatment was not implemented for the following reason, as advised to ANAO by Infrastructure in March 2013:

The proportion of sold versus retained units was not determined at the negotiation stage, that's why it was left open in the Activity. This was not seen as a high risk because the onus was on the Funding Recipient to provide affordable housing, in partnership with a not-for-profit affordable housing provider, as clearly stated in the funding agreement.

**7.44** The signed grant agreement states that the units 'will be owned by Horizon Housing and sold or leased to provide affordable housing'. However, the sale or lease of the units occurs outside the scope of the funding agreement. As at 9 May 2013, all six units were for sale and, if sold at their advertised price, the sales revenue would be some \$1.58 million.<sup>154</sup> The median unit price advertised was \$265 000, compared with a medium sale price for units sold in Logan Central for the 12 month period to 9 May 2013 of \$155 000.<sup>155</sup> The risk of such a situation arising was not addressed by Infrastructure in its approach to the funding agreement.

**7.45** Similarly, a risk identified in the CVA for the Rockingham Strategic Regional Centre Renewal project related to LandCorp (a third-party to the

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153 The Rockingham Strategic Regional Centre Renewal project also includes the first stage of a rapid bus transit system.

154 Source <<http://www.tallowwoodonnorth.com.au>>, a website established to promote the unit complex constructed under the LCP project.

155 Source of medium sale price data for Logan Central was myrpdata.com available at <<http://www.myrp.com.au>>. The data is © 2013 copyright RP Data Pty Ltd, Local, State, Commonwealth Governments.

project) yielding an estimated profit of \$2.33 million from the LCP project. The CVA recommended it be reviewed in the context of providing sufficient funds to assist cash flow during construction, while ensuring an equitable contribution between LandCorp and the Australian Government, including an adjustment for revenue from unit sales. The treatment Infrastructure proposed for this risk, as advised to the Minister, was to obtain 'an assurance on equitable contributions from partners given the Australian Government funding component will fund all work up to and including June 2013'. However, this treatment was not implemented.

**7.46** ANAO sought advice from Infrastructure as to why the risk treatments proposed by Infrastructure for the Logan Central Affordable Housing and the Rockingham Strategic Regional Centre Renewal were not implemented, and to what extent was the estimated surplus to the asset owners factored into the value for money assessment. Infrastructure's advice of March 2013 was that:

The CVAs for Rockingham and Logan noted that, with housing units eventually being sold, there may be some surplus for the proponents and this should be considered. There was no restriction on such 'profits' in the guidelines and that the projects met the criteria. We sought and received more detailed budgets, which were included in the funding agreements, but we did not seek to have some profit share as this was not a program objective. Furthermore, the two projects support the outcomes as per Part 1.3 of the Program Guidelines: 'demonstration projects that facilitate innovative residential developments that promote housing affordability, adaptable and accessible housing and improve access to services and public transport'.

## Achieving program objectives

**7.47** The signed agreements briefly describe the LCP project and key activities to be undertaken. These are based on the descriptions in the applications submitted, as updated during agreement negotiations. However, notably absent from the agreements for stream one and two projects are activities or requirements specifically designed to ensure the projects generate lessons that are transferred and applied across Australia's cities so as to deliver the desired outcome of improved planning and design. In addition, in respect of stream two 'demonstration' projects, there was an absence of requirements that would help ensure the projects would demonstrate to the desired audience how major cities can be more productive, sustainable and liveable.

**7.48** ANAO sought advice from Infrastructure in October 2012, and again in February 2013 as an answer had not yet been provided, to explain how the

department was ensuring that something was actually being demonstrated and not just built. Infrastructure provided a verbal response in February 2013, advising that a strategy for disseminating the lessons from the LCP projects was still being developed. A further written response in March 2013 was that:

Demonstration projects which were successful under the program were subject to the selection criteria for the program, which seek to further the program objectives. Projects were assessed against criteria regarding compliance with the national urban policy, partnerships across traditional boundaries and in relation to their strategic alignment with relevant planning frameworks. Further, demonstration projects were assessed against the additional 3 National Urban Policy criteria (Liveability, Sustainability and Productivity) and required to score highly against at least one of these.

In line with the program guidelines, the demonstration aspect of the successful projects also relates to how something was planned and delivered, e.g. the approach to planning and the partnerships fostered, in addition to what is constructed and the extent to which it enhances Liveability, Sustainability and/or Productivity.

**7.49** As acknowledged in paragraph 4.6, the LCP assessment criteria were tailored to identify projects with the attributes the Australian Government was seeking to promote so as to improve the planning and design of major cities. However, it does not follow that completion of the plan, design or construction project would, by and of itself, demonstrate those attributes to relevant stakeholders across the 18 major cities.

**7.50** In this context, there is a strong capacity building element to the policy objectives of LCP. For example, Infrastructure's website explained that 'the Liveable Cities Program seeks to improve the capacity of the 18 eligible capital and major regional cities that are the subject of the National Urban Policy'.<sup>156</sup> Additionally, the budget measure for LCP stated that, amongst other things, the LCP sought to 'improve the capacity of regional cities to undertake strategic planning in line with the Council of Australian Governments (COAG) agreed criteria'.<sup>157</sup>

**7.51** As reflected in the assessment criteria and in the department's comments quoted in paragraph 7.48 above, LCP was designed to identify and fund the applications that displayed an existing capacity in terms of the goals

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<sup>156</sup> <<http://www.nationbuildingprogram.gov.au/funding/liveablecities/>> as accessed on 2 April 2013.

<sup>157</sup> Budget Measures 2011–12, Budget Paper No.2, released 10 May 2011, p. 273.

of the National Urban Policy and the COAG national criteria for cities. Funding these projects may improve the financial capacity of successful applicants to undertake the planning or construction. However, unless the lessons learned are identified and then disseminated to other stakeholders, the funding is unlikely to improve the capacity of other relevant entities (including unsuccessful applicants) to undertake strategic planning. For example, it is unclear from either the LCP guidelines or the signed agreements how those applicants identified through the assessment process as being most in need of capacity building—a quarter of eligible applications were assessed as not satisfying the applicable policy criteria—will benefit from the program.

## Monitoring and evaluating program outcomes

**7.52** The CGGs state that grants administration should focus on the delivery of government outcomes.<sup>158</sup> In this respect, the establishment of an effective performance framework is an important component of any grant program. The framework should be able to reliably establish the outcomes achieved through individual grants (or outputs) and overall program outcomes.<sup>159</sup> The importance of measuring program outcomes was emphasised in Infrastructure’s Evaluation Resource Booklet, which states:

Measuring the performance of an activity is important for management, accountability and transparency reasons and provides a story of what has happened as a result of government actions: progress in meeting the government’s policy objectives, how well public money has been spent and whether expected achievements are on track.

**7.53** Both the guidance contained in the ANAO Better Practice Guide and in Infrastructure’s Evaluation Resource Booklet, highlight the importance of developing a performance/evaluation framework at the outset of a program. The Evaluation Resource Booklet states that frameworks provide ‘a good understanding of the mechanics of what is trying to be achieved and focuses thinking, discussion and actions around the desired outcomes’. Delaying establishing a performance framework can have a significant impact:

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<sup>158</sup> CGGs, op. cit., p. 17.

<sup>159</sup> ANAO Better Practice Guide, op. cit., p. 98.

- on an assessor being aware of the importance of selecting projects against assessment criteria that represent best value for public money in the context of the objectives and outcomes of a grant program; and
- when developing targets to identify effectiveness indicators, whereby, if that task is not undertaken prior to the signing of an agreement it is difficult to collect relevant information to then assess effectiveness.

**7.54** However, Infrastructure advised the ANAO in February 2013 that it did not have a plan for measuring and evaluating the extent to which LCP achieves the desired policy outcomes in place. It further advised the ANAO in May 2013 that, while it has ‘given this matter a considerable amount of thought throughout the entire life of the program, the department is currently finalising an evaluation strategy to capture key outcomes in line with project and program objectives’.

**7.55** That is, the drafting of the LCP guidelines, selection of successful applicants and negotiation of funding terms and conditions were not informed by a program monitoring and evaluation plan. The effect of this can be seen in the signed agreements, which contain limited requirements that would assist the department to monitor and evaluate the overall program outcomes. For example, the agreements do not request specific data or details in a way that could be easily compared across projects or collated at the program level.

**7.56** In this context, in October 2012 the ANAO sought advice from Infrastructure as to the requirements included in the grant/project agreements that would enable the department to monitor the outcomes achieved at both the individual grant and the overall program levels. In its response of November 2012, Infrastructure pointed to the information that would be collected from the final reports and provided the following example of the reporting requirements:

The Project Report will be a standalone document that can be used for public information dissemination purposes. The final Project Report will:

- (a) describe the conduct, benefits and outcomes of the Project;
- (b) evaluate the Project from the responsible Party’s perspective, including assessing the extent to which the project milestones have been achieved and why any aspect was not achieved;
- (c) include a discussion of any other matters relating to the project, limited to the minimum necessary for the effective assessment of performance



and agreed between the Commonwealth and South Australia, at least 60 days before it is due; and

(d) endorsed by relevant Councils and Partners.

**7.57** One final report had been submitted as at end March 2013 and it had been accepted by Infrastructure as fulfilling the requirements. However, it only provided information against requirement (d) as quoted in the example above. It also contained: a brief summary of the project as described in the agreement, a statement against income and expenditure, confirmation that the funded design document had been endorsed by the State Minister, and a copy of the completed design document.

**7.58** Importantly, the signed agreements contain the expected range of progress and financial reporting requirements to enable Infrastructure to monitor and evaluate performance at the individual project level. However, the making of payments and successful delivery of project outputs does not necessarily equate to the achievement of program outcomes. This was recognised in the CGGs, which state:

In adopting an effective outcomes orientation, agencies should be aware of common traps identified by the Australian National Audit Office (ANAO). These can include:

- assuming that the award of a grant automatically secures the desired outcome; and
- assuming that the consumption of inputs results in the delivery of desired outputs and outcomes.

## **Importance of performance information**

**7.59** Adequate performance information, particularly in relation to program effectiveness, allows managers to provide sound advice on the appropriateness, success, shortcomings and/or future directions of programs. Importantly, the Parliament and the public's consideration of a program's performance, in relation to impact and cost effectiveness, rely heavily on reliable and appropriate performance information.<sup>160</sup>

**7.60** Within the context of the Outcomes and Programs Framework, Key Performance Indicators (KPIs) are established to provide information on the

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<sup>160</sup> ANAO Audit Report No.5 2011–12, *Development and Implementation of Key Performance Indicators to Support the Outcomes and Programs Framework*, September 2011, p. 13.



effectiveness of programs in achieving objectives in support of respective outcomes. A KPI established for the Infrastructure and Transport portfolio that is relevant to LCP is that ‘demonstration projects and initiatives promote infrastructure efficiency and urban sustainability.’<sup>161</sup> In the absence of a performance framework or evaluation strategy being finalised (as at end April 2013), it is unclear how Infrastructure will measure performance against this KPI in respect of LCP.

### *Informing future government policy*

**7.61** One of the risks identified in the LCP risk management plan was that the program would not be evaluated properly. It stated that the contributing factor to this risk was that ‘an evaluation plan had not been developed’, and that the consequence was ‘the department is not able to effectively advise on/influence government policy’.

**7.62** The importance of evaluating LCP so as to inform government policy making is highlighted in the context of the program being a forerunner to the Australian Government’s proposed future investment in improving the liveability, sustainability and productivity of major cities.<sup>162</sup> This was recognised at a Senate Estimates hearing, as follows:

Senator LUDLAM: Are you going to release some kind of benchmark on the basis on which you would consider whether this program was successful or not? After you have spent all your money, how will we evaluate whether it worked?

Mr Mrdak [Secretary of Infrastructure]: We would look to have an evaluation of the program. The minister has certainly indicated that he sees this as the start of a Commonwealth investment in cities. Obviously that is a matter which the government will have to consider in its budgetary circumstances, but we will be looking to evaluate the program as we do normally with programs.

Senator LUDLAM: Good. I imagine that before you scale it up a hundredfold you will want to know that the first down payment was successful ...<sup>163</sup>

**7.63** The link between monitoring current LCP activities so as to inform future Australian Government investment in this area was also made by the

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161 Department of Infrastructure and Transport, *Portfolio Budget Statement 2012–13*, May 2012, p. 35.

162 This is reflected in the original policy proposal wherein LCP was a \$260 million initiative.

163 Tuesday, 18 October 2011 Senate Estimates Hansard, p. 113.

Moving People 2030 Taskforce. Its recommendations to government and policy makers was 'Based on post delivery monitoring of existing Liveable Cities projects expand and increase funding to the Liveable Cities program'.<sup>164</sup>

## Conclusion

**7.64** According to the LCP guidelines, Infrastructure had planned to have signed agreements in place, and the 2011–12 appropriation of \$10 million expended, by 30 June 2012. However, only two agreements were signed, and no payments were made, in 2011–12. By the end of April 2013 (10 months after the target date for signing agreements):

- agreements had been signed for 22 projects totalling \$15.33 million in funding;
- agreements had not yet been signed for the other two projects approved for a total of \$3.87 million; and
- \$0.8 million of the available funding remained unallocated (largely due to the reversal of a funding decision and a withdrawal by a successful applicant).

**7.65** The LCP was originally due to end on 30 June 2013. However, only one of the signed agreements required the funded project to be completed by this date. The program's end-date was extended to 30 June 2014 via a movement of funds. Of the 22 signed agreements, 18 are scheduled to be completed by the extended end date.

**7.66** There were also a number of aspects of the signed agreements that may not adequately protect the Commonwealth's interests. In particular, as has often been the case with grant programs administered by Infrastructure, payments have been contracted to be made in advance of project needs. This includes, under some agreements, a significant proportion of the funds being paid upfront without there being a demonstrated net benefit to the Commonwealth from doing so. All LCP payments are contracted to be made before the final project deliverable. In addition, Infrastructure did not fully

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164 Moving People 2030 Taskforce, *Moving Australia 2030: A Transport Plan for a Productive and Active Australia*, March 2013, p. 8.

implement the risk management strategies it had advised the Minister would be undertaken.<sup>165</sup>

**7.67** The signed agreements contain requirements that will assist Infrastructure to monitor and evaluate performance at the individual project level. However, these requirements do not facilitate monitoring and evaluation of the desired program outcomes. In addition, it is unclear from the LCP guidelines or signed agreements how the department will identify lessons learned from the projects and then disseminate these to key stakeholders in a way that will help improve planning and design across the 18 major cities.

**7.68** Further, the selection of LCP projects and development of funding agreements was not informed by an evaluation plan or program performance measurement framework. While such a plan can still be developed, the timing reduces Infrastructure's capacity to collect the performance data required for a robust and comprehensive program evaluation.

### Recommendation No.3

**7.69** In the interest of achieving the desired program outcomes, ANAO recommends that the Department of Infrastructure and Transport develops an evaluation strategy for grant programs at an early stage of the program design, so that the necessary information to evaluate the contribution that individual projects make to the overall program outcomes can be captured during the application assessment process and reflected in funding agreements signed with the successful proponents.

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<sup>165</sup> For example, in respect of five stream two projects, Infrastructure had advised the Minister that it would implement twelve specific risk treatments prior to signing the agreements. However, it only implemented four of these risk treatments. Further, Infrastructure's legal services section identified risks relating to the substantial involvement of a third-party in one of the projects and suggested amendments to the draft agreement so as to protect the Commonwealth's interests. These amendments were not incorporated into the signed agreement.

### **Infrastructure's response:**

*7.70 Agreed. The Department notes, however, that fit-for-purpose reporting requirements were included in all funding agreements for this program.*

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Ian McPhee

Auditor-General

Canberra ACT

8 August 2013

# Appendices



## Appendix 1: Agency response



Australian Government

Department of Infrastructure and Transport

Deputy Secretary

Reference 2012/1349

Ms Barbara Cass  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Ms Cass *Barbara*

Thank you for your letter of 25 June 2013 enclosing the Proposed Audit Report on the Design and Implementation of the Liveable Cities Program for the Department's response.

We are pleased to see the positive findings in the report about the Department's approach to merit assessment, providing clear advice to the Minister and that the mix of successful projects contributed to the program objectives. We note that the ANAO has stated that the program was conducted appropriately, and has made no detrimental findings in relation to the value for money delivered by the program.

Given the Department's rigorous merit assessment process, which saw projects representing the highest value for money being recommended to the Minister, we do not accept the ANAO's recommendation that each and every proposal should go through an additional process to more 'clearly record' value for money.

The Department considers it effectively designed and implemented this new program, which has delivered a strong suite of projects. As is always the case, there are areas for further refinement in any future program, as outlined in the Department's responses to the report's recommendations.

Please contact Mr Roland Pittar, General Manager, North West Roads (02 6274 6424) if you would like to discuss this response.

Yours sincerely

Lyn O'Connell

24 July 2013

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## Department of Infrastructure and Transport Response

The Department notes the ANAO's positive comments about its practices under the Liveable Cities Program, particularly around the merit assessment of applications and the provision of clear funding recommendations to the Minister. The Department further notes the ANAO's conclusion that the nature and distribution of successful projects 'provided the desired mix foreshadowed in the program guidelines' so as to contribute to the objective of improving the planning and design of major cities.

In relation to the reporting and financial frameworks relevant to the program, the Department notes that it followed all relevant advice at the time and met, and in some cases, exceeded, the relevant reporting requirements. The ANAO's concerns about the inconsistencies in the relevant frameworks should be directed to the relevant central agencies.

The Department notes the ANAO's comments regarding some administrative issues that arose in the eligibility and assessment processes but stresses that these had no material impact on the selection of projects that were eventually funded. In relation to the eligibility checklists, in particular, the eligibility of all projects was considered during the broader assessment process.

The Department stands by its assessment process, which saw those projects receiving the highest overall merit score, and representing the greatest value for money, being recommended to the Minister. All successful projects met the eligibility requirements and received high overall merit scores. While some high-ranking projects were assessed as having low scores against the partnerships criteria, in particular, these criteria were not eligibility requirements. Through the design of the program, the Department sought to encourage partnerships, but not to exclude projects without a high degree of partnership. Where projects put forward by individual proponents did very well against the other criteria they were still competitive. This allowed an appropriate mix of projects to be selected for funding.

Through its program design and implementation, the Department has been able to deliver a strong suite of projects, including a number of innovative projects and those where strong partnerships have been formed across jurisdictional and other boundaries. This has been done at the same time as working to establish new processes and manage the uncertainty inherent in a new program around the level of demand and the nature of applications. We note the ANAO's positive comments about the opportunities provided by the Department for feedback from unsuccessful applicants and, further, that there has not been a single complaint about the program by any stakeholders.

## ANAO comment:

*Infrastructure's covering letter refers to the department not agreeing with the second audit recommendation (see further at paragraph 4.86 to 4.87). ANAO has not proposed an additional assessment process as suggested by Infrastructure. Rather, the recommendation is that Infrastructure clearly record how applications assessed through existing assessment processes as having little or no merit in terms of the published criteria (see paragraph 4.88) can be considered to represent value for money.*

*In addition, the fourth paragraph of the Department's formal response suggests that ANAO concerns about the composition of the merit list related only to applications being included that had scored poorly against the 'partnerships' criterion, which was identified in the program guidelines as being core criterion five 'funding'. However, that was not the only core criterion where a significant number of applications had been scored poorly. For example, a quarter of the applications on the merit list had been scored a zero or a one out of five against one or more of*



*the other core criteria (including the 'policy compliance' criterion). This situation was reflected in the merit list descending to applications that had an overall total score as low as three out of 25. See further at paragraphs 4.82 and 4.88.*

## Appendix 2: Projects approved for Liveable Cities Program funding

Project title	Project proponent	Funding approved	Status as at end April 2013
Stream one—planning and design projects			
Willagee Structure Plan	City of Melville	\$30 000	Agreement signed
Magill Urban Village, Precinct Master Plan	Campbelltown City Council	\$110 000	Agreement signed
Macquarie Point Railyards Future Development Options and Benefit Cost Analysis	Department of Economic Development, Tourism and the Arts, Tasmania	\$110 000	Project completed
Meadowbrook Economic Development Strategy*	Department of Local Government, Community Recovery and Resilience, Queensland	\$120 000	Agreement under negotiation
Toolern Train Station Feasibility Project	Melton Shire Council	\$125 000	Agreement signed
Hobart Central Bus Interchange Planning Project	Hobart City Council	\$125 000	Agreement signed
Redevelopment of Former Kingston High School Site	Kingborough Council	\$200 000	Agreement signed
Port Adelaide Centre—Black Diamond Square Upgrade Project	City of Port Adelaide Enfield	\$229 841	Agreement signed
Precinct Based Master Plan for the Darwin CBD	City of Darwin	\$250 000	Agreement signed
Improving Albury Wodonga's Cycling Infrastructure	Albury City Council	\$300 000	Agreement signed
Townsville Smart Link	Townsville City Council	\$300 000	Project withdrawn by proponent
Greater Launceston Plan	Launceston City Council	\$320 000	Agreement signed
Practical Design for Resilient Outer Suburbs Project	City of Whittlesea	\$355 300	Agreement signed
Southbank Cultural Precinct Redevelopment Blueprint Project	Arts Victoria	\$400 000	Agreement signed
Cockburn Central—Integrated Facility Precinct Structure Plan	City of Cockburn	\$444 400	Agreement signed

Project title	Project proponent	Funding approved	Status as at end April 2013
The GREENfield, Tarneit West Project	Wyndham City Council	\$448 500	Agreement signed
Realising the Capital in the City	Australian Capital Territory Government	\$500 000	Agreement signed
Hunter Region—Strategic Infrastructure Plan	Maitland City Council	\$500 000	Agreement signed
Sunshine Coast Light Rail Project—Feasibility Study	Sunshine Coast Regional Council	\$500 000	Agreement signed
Redfern Station Precinct—Feasibility Strategy	Transport for NSW	\$500 000	Funding approval withdrawn by Minister
Stream two—demonstration projects			
The Logan Central Affordable Housing Demonstration Project	Logan City Council	\$689 038	Agreement signed
The City West—Hindley Street Redevelopment Project	Department of Planning, Transport and Infrastructure, South Australia	\$1 000 000	Agreement signed
Principal Pedestrian Network Demonstration Project	Department of Transport, Victoria	\$1 200 000	Agreement signed
Green Square Town Centre 'Trigeneration'	City of Sydney	\$3 750 000	Agreement signed
Parramatta River City Renewal	Parramatta City Council	\$3 750 000	Agreement under negotiation
Rockingham Strategic Regional Centre Renewal Project	Western Australian Land Authority (LandCorp)	\$3 750 000	Agreement signed

Source: ANAO analysis of Infrastructure records.

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*Design and Implementation of the Liveable Cities Program*

Department of Infrastructure and Transport

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