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Proof Committee Hansard

SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE

Estimates

(Public)

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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE

Monday, 19 July 2021

Members in attendance: Senators Antic [by video link], Gallagher, Henderson [by video link], Keneally [by video link], McCarthy [by video link], McDonald [by video link], Rennick, Rice [by video link].

INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT AND COMMUNICATIONS PORTFOLIO

In attendance

Senator Hume, Minister for Superannuation, Financial Services and the Digital Economy; and Minister for Women's Economic Security [by video link]

Australian National Audit Office

Ms Rona Mellor PSM, Deputy Auditor-General

Ms Carla Jago, Group Executive Director, Performance Audit Services Group

Mr Brian Boyd, Executive Director, Performance Audit Services Group

Ms Tracey Bremner, Senior Director, Performance Audit Service Group

Department of Infrastructure, Transport, Regional Development and Communications

Mr Simon Atkinson, Secretary

Mr David Hallinan, Deputy Secretary

Infrastructure Investment Division

Mr Philip Smith, First Assistant Secretary, Infrastructure Investment Division

Mr James Savage, Acting Assistant Secretary, Program, Policy and Budget

Ms Melony Czajor, Acting Assistant Secretary, Victorian Regional Infrastructure

Ms Shona Rosengren, Assistant Secretary, Queensland, Northern Territory and Western Australia Branch

Ms Robyn Legg, Assistant Secretary, New South Wales, Australian Capital Territory and Targeted Roads

Ms Lisa La Rance, Assistant Secretary, Investment Advisory and Business Improvement Branch

Committee met at 09:10

CHAIR (Senator McDonald): I now declare open this public hearing of the Senate Rural and Regional Affairs and Transport Legislation Committee. The Senate has referred to the committee the particulars of proposed expenditure for 2021-22 and related documents for the Infrastructure, Transport, Regional Development and Communications portfolio, excluding communications. The committee may also examine the annual report of the department appearing before it. The committee has fixed Thursday 29 July 2021 as the date for the return of answers to questions taken on notice. Senators are encouraged to provide questions on notice to the committee secretariat by the close of business on Thursday 22 July 2021. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice.

I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. The Senate, by resolution in 1999, endorsed the following test of relevance to questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purposes of estimates hearings. I remind officers that the Senate has resolved that there are no areas of connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise.

The Senate has also resolved that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policies and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised, which will be incorporated in the Hansard:

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead, witnesses are required to provide some specific indication of the harm to the public interest that could result in the disclosure of the information or the document.

I welcome Senator the honourable Jane Hume, Minister for Superannuation, Financial Services and the Digital Economy, and Minister for Women's Economic Security, representing the Minister for Infrastructure, Transport and Regional Development. Senator, can I ask if you have an opening statement to make at this time?

Senator Hume: No, I don't have an opening statement; however, acknowledging that representatives of the NCA will not be sitting with the ANAO, [inaudible] before we begin, I would like to table a document for the committee so they have that available to them throughout the ANAO's testimony. It's a map showing the combined investments of the Commonwealth and Victorian governments in commuter car parks across the Victorian train network. The information that's displayed on the map is sourced from the Victorian website, the carparks.vic.gov.au website, as well as from the department of infrastructure's website on the Urban Congestion Fund and some of the joint sites that were funded from the regional [inaudible] program rather than the Commuter Car Park Fund. I have a staff member there who can provide an electronic copy to those senators online.

I put into context the analysis done by the ANAO in its report [inaudible].

Senator GALLAGHER: Senator Hume, we are missing a bit of that. Your audio is dropping out.

CHAIR: Could I ask that people who aren't speaking put themselves on mute because any background noise will interfere with the person who is speaking. Could I ask everybody online to go on mute if they're not speaking. Senator Hume, you may need to make that statement again, please.

Senator GALLAGHER: I think we have lost Senator Hume.

CHAIR: Senator Hume, can you make that statement again? We ask those who aren't speaking to be on mute.

Senator Hume: I hope you can hear me. I would like to table a document that I have in front of me here. There are hard copies available to the senators in the room and electronic copies available to those who are not. The document that I am tabling is a map showing the combined investments of the Commonwealth and the Victorian governments in commuter car parks across the Victorian train network. [inaudible] train network as well as the department of infrastructure's website on the Urban Congestion Fund. Some of the joint intrasites were funded from the Regional Rail Revival program there, rather than [inaudible]—

CHAIR: Senator Hume, you are dropping out, I am sorry.

Senator Hume: I am afraid there is not much more I can do. I can type my testimony, if you like?

CHAIR: Senator Hume, you have those documents and they have been distributed to the secretariat for distribution to the senators both who are in the room and electronically online, and we hope that your connection will be better for when you appear with the department later this morning. Is everybody is satisfied with that?

Australian National Audit Office

[09:18]

CHAIR: I will now welcome officers of the Australian National Audit Office. I would like to take this opportunity to remind senators and witnesses of obligations under the Auditor-General Act 1997—specifically, that sensitive information obtained in the course of performing an Auditor-General function must not be disclosed if, on the opinion of the Auditor-General, disclosure of the information would be contrary to the public interest, including, for example, if it would involve the disclosure of cabinet deliberations or prejudice deliberations between the Commonwealth and the state. Do you wish to make an opening statement?

Ms Mellor: No, thank you, Chair.

CHAIR: Thank you. Senators present, we have several senators in the room and online. I'm going to ask that you keep your questions to short blocks of 15 minutes. I will try to get around the room to everybody and give everybody an opportunity to ask questions. Senator Gallagher, I will start with you.

Senator GALLAGHER: I'm hoping we can make up some time, because we are 20 minutes late. Thank you to the audit office for appearing today. I've read the audit. It seems to me your conclusion at the end of this audit is that, under the Urban Congestion Fund and the commuter car park fund as a subset of that, there were no effective administration, no implementation plans, no performance indicators and no evaluation plan. Recordkeeping was not compliant. Selected projects were not appropriate. It was designed specifically not to be open or transparent. Projects were not selected on merit. There were no assessment criteria, no guarantee that projects funded provided value for money for the taxpayer and, following the decisions, an absence of strong controls for approved projects, including how milestones are met and payments made. On top of all of that, 77 per cent of the car parks went to coalition-held seats and 10 per cent went to seats the government wanted to win. It's a pretty damning audit on any measure. Have you ever seen a program have such serious failures of administration in the audits that you have done?

Ms Mellor: We don't keep a leaderboard on audits. This one's shortcomings that you've outlined are consistent with the findings and led to a conclusion of not effective.

Senator GALLAGHER: Overall?

Ms Mellor: Overall.

Senator GALLAGHER: The first part of the audit relates to the Urban Congestion Fund and how that was put together, because some of the car parks came out of the Urban Congestion Fund initially before the specific program was set up. Do those conclusions that I've just read out relate to the Urban Congestion Fund as well as the commuter car park fund?

Mr Boyd: The findings in chapter 2 of the audit report, which is about the design of the fund, relate to the fund in its entirety. The remaining chapters of the report, which look at how projects were selected, how assessment work was done by the department and the management of those approved projects through the national partnership agreement arrangements, are specific to the commuter car parks component of the fund.

Senator GALLAGHER: The Urban Congestion Fund is a \$4 billion fund. The audits found serious failings or shortfalls with the administration of that fund, but then you drilled down into the commuter car park fund more specifically.

Mr Boyd: In terms of the design of the fund overall, yes, we examine that; but, in terms of the specifics as to how non-car-park projects were assessed by the department, we didn't examine those in this audit. We didn't examine how they were managing the establishment of milestones and payment arrangements for the non-car-park components.

Senator GALLAGHER: Are you looking at the Urban Congestion Fund more broadly?

Mr Boyd: Not at present, no.

Senator GALLAGHER: Were you able to get to the bottom of why the department decided to not have a merit based selection process that was open for applications?

Mr Boyd: Not satisfactorily, no. We raised the issue first in the context that wasn't an implementation plan for the program. I will step back a bit. The national land transport legislation has been around for a long time. The Commonwealth is used to funding projects through that framework. There's billions in projects at any point of time under the NLT Act framework. But car parks in particular and the Urban Congestion Fund more broadly are things which were new, so it was something about which it seemed to us there was benefit here in actually designing some more bespoke arrangements to still fit within the legislative framework but to recognise, particularly if we focus on car parks, that the Commonwealth doesn't have a long history of funding car parks at railway stations and the like. This was something new for the department.

The risks involved started to become apparent when we looked at how department was assessing eligibility. It was basically applying its standard arrangements. If you're getting project proposals for new work on the national highway, there's not a lot of challenge there in looking at eligibility, because it's something you're used to and it's almost self-evident. But, when they were looking at car parks, as you would have seen from the audit report, they had to start getting a series of legal advices as to when a car park would be eligible and when it would not be eligible. When we looked at how the department was going about that work, we saw there were no procedures in place as to how you would assess the eligibility of a car park. The actual assessment reports didn't even address eligibility; it was covered off fairly briefly in a covering minute. It was almost saying it would be eligible under this section of the act without anything underpinning it to demonstrate that the department had actually properly turned its mind to that. For us the ultimate fail there is when you look at the Doncaster project, where the department had to agree with us in the course of our audit that, yes, it's not eligible currently. They are saying they will look to make some legal changes so that it will be eligible before construction commences, but that doesn't change the fact that it's been approved under the NLT Act but was not eligible at the time that it was approved.

Senator GALLAGHER: I understand this is related to the implementation plan, but the original decision not to have it open—it's the Urban Congestion Fund in its entirety, isn't it?

Mr Boyd: Correct.

Senator GALLAGHER: We got \$4 billion worth of public money, and there's no clear way for people to understand how you access that money. You can't apply for it?

Mr Boyd: You can't apply for it. The corollary to that to us is that, with the exception of New South Wales, where there was some engagement with the state government, for the majority of the states—and you'll see that in the audit report where we engage with the state departments ourselves to get their input and perspectives on the program—the department wasn't actually engaging with its state counterparts in lieu of actually running an open, competitive process. Do you engage with the states?

I haven't seen this map; it wasn't presented to us in the course of the audit. But there was nothing even of that ilk done at the time to say, 'Here's what the states are already doing in this space; how do we either tie in with that or complement that in some way?' There wasn't an open, transparent, competitive approach with people saying, 'Here are good candidates to be considered;' but, equally, there wasn't then a government-to-government approach of saying, 'The states are essentially responsible for this infrastructure, and in some cases local councils are responsible for the land on which the car parks would be built if they were to be built; how do we engage with them to see what's feasible and what's the most meritorious?'

Apparently this map talks about Victoria. Victoria isn't the only state that runs a car park program. Other states do similarly. It's not an uncommon thing. As we engaged them, states already had their own prioritisation process. We haven't audited whether they are good, bad or indifferent, but they've already been through something similar, whereas the Commonwealth adopted a different approach to selecting the locations to build the car parks that they were proposing to fund.

Senator GALLAGHER: To that point: your audit talks about a canvassing process for identifying projects. Did you get to the bottom of what that process looked like? Was that basically handled by ministers asking their colleagues: 'Do you want a car park? Where would you like it?'

Mr Boyd: Ministers and two ministerial officers essentially handled the canvassing process, yes.

Senator GALLAGHER: Can you tell me anything more about the canvassing process and what you found?

Mr Boyd: It started initially termed as being top 20 marginals. The key thing was to touch base with the top 20 marginals through either the member of the House of Representatives if it was an electorate held by the coalition or the relevant duty senator in four other electorates. It turned out to be endorsed candidates in two other electorates. It was to ask them, 'What projects in your electorate do you think are worthy of being put through this program?' That canvassing wasn't just car park projects; it was the broader UCF. In lieu of a public call for applications, where you've got a large number of competing applications to compare against, it was already a narrowed-down process of basically saying these—I said top 20 marginals; that's where it started. It ended up being 23 coalition held plus six other electorates, so 29 electorates. It was either the member, the candidate, the duty officer or their officers that were asked, 'What would you like to put forward for consideration?' Not everything that came forward ended up being included on the list. As you can probably gather, though they started with the top 20 marginals, the field of electorates being canvassed widened a little bit over time but didn't extend to all 151 federal electorates, for example.

Senator GALLAGHER: No, clearly. So, with the top 20 marginals, through the course of your audit you would have seen emails or some—

Mr Boyd: The best way to explain it is as a to-do list: 'Here's what we have to do.' The key thing was within—

Senator GALLAGHER: From whose office, sorry?

Mr Boyd: Within Minister Tudge's office. One of the key tasks to be done was to canvass what was initially called the top 20 marginals as to what they would like to see funded through the Urban Congestion Fund. Separately, there is a tracking sheet by electorate, explaining where they got to in terms of getting a list put forward or making contact to eventually getting a list put forward.

Senator GALLAGHER: So the tracking sheet is separate to the spreadsheets that your audit talks about?

Mr Boyd: Yes. The spreadsheets we talk about in the audit report are state based spreadsheets, where at different points in time they would be saying, 'What are we looking at potentially funding at this point in time?' So they'd do a spreadsheet by state of individual projects. These other documents, if you like, were more overarching—who is in the field to be canvassed, and where are we up to with that canvassing?—if that makes sense.

Senator GALLAGHER: So Minister Tudge or his office led a process, called the top 20 marginals, that had a tracking sheet. Through that, the people in those marginal seats, which later got pushed out to 29 electorates, were invited to submit projects. This was shared with another couple of ministerial offices, did you say?

Mr Boyd: The audit report says there were two ministerial offices involved in the canvassing. Most of that was done out of Minister Tudge's office, touching base with either the elected member or their office, the duty centre or their office or the two candidates for Mayo and Macnamara.

Senator GALLAGHER: What were the other two offices?

Mr Boyd: The two offices were Minister Tudge's office, which did most of the canvassing—and some of the canvassing was done out of the PMO.

Senator GALLAGHER: That was done by a staff member, was it—a senior adviser? I'm not asking for a name.

Mr Boyd: That's correct, yes—in each of them.

Senator GALLAGHER: Just out of interest, was there a similar contact point to the community sport infrastructure grants?

Mr Boyd: The PMO one was the same person.

Senator GALLAGHER: And this was all happening when? Do you have an idea?

Mr Boyd: It started in late 2018, around the September-October period; the canvassing itself was at the start of September-October 2018. By early April it was down to the situation where the canvassing had been done, of firming up what would be the final tranche of projects to be approved. So it was over that September 2018 to April 2019 period. A lot of the canvassing was more late 2018 into early 2019.

Senator GALLAGHER: And the car parks that were ultimately funded were in this canvassing process?

Mr Boyd: That's right.

Senator GALLAGHER: That's how they were all identified?

Mr Boyd: There were only four where we couldn't actually, through the records, see what the original impetus was for them being included. There certainly wasn't a separate application process that was run separate to that. They were all still in an electorate which was flagged to be canvassed. Some of the canvassing may have happened by phone, for example.

Senator GALLAGHER: Of the 47 projects that ultimately got—

Mr Boyd: There were 44 projects and 47 sites.

Senator GALLAGHER: So only four of them did not come through this canvassing?

Mr Boyd: I'm not saying they didn't come through the canvassing. In electorates that were to be canvassed, for most of them we could track, through records, the individual canvassing moments to see when they first came forward. But for four of them we couldn't find the departmental records showing that canvassing, but they were still in the electorates that were to be canvassed. We're not saying there wasn't canvassing; we're just saying—

Senator GALLAGHER: That you can't find a written record, but they still align with—

Mr Boyd: But the tracking sheet still said they were being canvassed. It's just that we couldn't see the emails going back and forth or other records of it happening.

Senator GALLAGHER: As part of this canvassing, and the records you saw, was money allocated to this? Were people nominating, 'This will cost \$5 million'?

Mr Boyd: Yes. To some extent it appeared there was a menu; it would be \$10 million or \$15 million. It wasn't that they were working off some early planning work or design work, saying, 'Here's what it would cost to do a car park for this many spaces at this location over this time frame'; it was, 'There'll be \$15 million for an extra X spaces at this location.' So there was money there. But it is also worth understanding that at some points, particularly early in the canvassing, it was more a matter of electorate dollar amounts, with the projects to receive that dollar amount being TBD—to be determined.

Senator GALLAGHER: So a budget had been notionally allocated to an electorate which could then be allocated to specific projects?

Mr Boyd: The UCF started off as \$1 billion. By early December they were looking at it, saying, 'Here's what the UCF would look like Australia wide'—in fact, they had their own map of that as to what it would look like, splitting up those dollars. In quite a number of cases they would have, 'Here's the electorate, here's the project, here are the dollars', but in some cases they didn't yet have the project identified; it was, 'Here's the state, here's the electorate, here are the dollars, but not yet what exactly we will do with that.'

Senator GALLAGHER: So your evidence is that the Urban Congestion Fund, the \$1 billion, was allocated on a state basis with buckets of money prior to projects being identified?

Mr Boyd: I wouldn't necessarily say it was allocated that way. By early December the planning proceeded such that they were looking at, 'Here's what the UCF billion dollars looks like Australia wide and here's what it looks like within the state, how much will go to the coalition and how much will go to the ALP.'

Senator GALLAGHER: Was that a ministerial document or a department document?

Mr Boyd: That was a document that the department prepared to inform the discussion between ministers.

Senator GALLAGHER: Thank you.

Senator ANTIC: Thank you for your evidence. I'm interested in a couple of discrete points. Coalition governments make commitments to projects all the time as part of campaigns or as decisions of government, and do not seem to be required to seek approval from a delivery partner. Firstly, do you believe that political parties should not be able to make infrastructure election commitments? Is that what this report is saying?

Ms Mellor: No. We don't deal in beliefs; we deal in opinions on audits. This audit is saying that the efforts of the department of infrastructure in supporting this program were ineffective.

Senator ANTIC: There is still the opportunity for delivery partners to get things wrong. Did the ANAO investigate or consider how that might be the case—how delivery partners might get delivery wrong? For example, the allocation to not use cost—these are the sorts of things that seem to be taken out of context or just plain wrong. Did the ANAO report consider that?

Ms Mellor: We audited against what the department did, and there were a number of shortcomings in the process that the department used around assessing projects. We don't look to see whether or not the delivery partners have made a mistake; we look to see what information the department has used to provide its advice.

Senator ANTIC: But it is true to say that delivery partners can get information wrong. That is a going concern and a live fact, is it not?

Mr Boyd: The way it works—and this is not just for the Urban Congestion Fund or the commuter car parks component of the fund—is: under the national land transport funding arrangements, which is for a thing called the Infrastructure Investment Program, once it's been decided that a project will get added to the program the next step is for the department to obtain a project proposal from the delivery partner. That project proposal is then assessed and analysed by the department of infrastructure before it provides advice to the minister as to whether the project should be approved for funding, formally under the national land transport legislation as well as under the PGPA Act. So there's that second avenue there where, once the department has got a proposal from the delivery partner, it assesses that proposal across a range of measures and provides advice as to whether the project should be approved for funding. Under the legislation, that advice must be that the project is eligible for funding and that, in the way the legislation terms it, it's appropriate that it be approved for funding. There's a formal process there of assessment advice that goes to the minister, and it's at that point that the department looks at whether the project delivery partner has actually put together a proposal that can be supported.

As to what we looked at in this audit report when we looked at the department's assessment of proposals, at the outset we said we didn't think the department had a well-planned or well-conducted approach to eligibility. But similarly, upon merit, there are some of the things that you're talking about in terms of delivery partners—whether the project can be delivered for the costs that are being put forward, how many car park spaces you would receive for the money being put forward and those sorts of things. As we point out in the audit report, it includes some cost benchmarking. As we say in the audit report, when Minister Fletcher first had responsibility for the program he actually said to the department, 'You need to get some cost benchmarking done here.' Obviously there were some concerns that, once they were getting proposals from the delivery partners—bearing in mind that most of those delivery partners hadn't been involved in the process of saying this is a project worth being considered for funding—the costs coming forward were much higher, in some cases for a lower number of car park spaces than had been announced when the project was actually first approved or funding agreed to by the Prime Minister. Those sorts of steps, in terms of delivery partner capacity and capability to deliver, are things which the department formally assesses. As the Deputy Auditor-General just said, that's what we examine—what the department has done to properly examine the project proposals that come forward from the delivery partners.

Senator ANTIC: There seems to be an erroneous view that the department didn't engage with the states on these projects. Isn't it fair to say that consulting with delivery partners is not actually required to make funding decisions? If the Commonwealth consulted with delivery partners on every single project before it was announced, nothing would ever get done, would it?

Mr Boyd: No, you're right; the legislation doesn't require that there be any consultation. The thing here is that the Commonwealth department of infrastructure doesn't—and, in some respects, cannot—deliver car parks because (a) it doesn't have the delivery capacity and (b) the land isn't something the Commonwealth currently owns. Obviously you can purchase land, but the Commonwealth, through the Infrastructure Investment Program—not just for the Urban Congestion Fund but more broadly, even on the national highway—relies upon others to deliver projects. Normally there's engagement through the work-up process before a project is added to the schedules of the national partnership agreement. If you look through the audit report you'll see that some of the state governments are saying, 'By not engaging with us, you're not getting our input as to what is feasible and practical, what it might cost, what you might get for that, and the benefits versus the costs at the time you're making decisions.' Once government has made a public announcement that it's going to do something, in terms of constructing or extending a car park in a certain space with a certain amount of money—bearing in mind that the Infrastructure Investment Program in large part works on co-funding, where you're wanting the delivery partner to chip in, quite commonly, half the cost of a project—if the delivery partner has had no involvement in the project coming forward and they've got their own priorities and their own funds are prioritised in accordance with that, you then see a situation, as we see now with the Commuter Car Park Fund, where most of the projects have been wholly funded with Australian government funding. You don't have the usual benefits, if I can put it that way, of co-funding, where both partners have some skin in the game and have similar incentives. You're also expecting state governments and, in some cases, councils to reprioritise what they think is most important and is most needed for the community to fit with a privatisation process on which they had no input.

Senator ANTIC: Did the ANAO ever actually consider, though, that delivery partners might deliberately withhold or not provide information to the department? Was that considered in the preparation of this report?

Mr Boyd: In the department's project assessment reports that we examined as part of this audit report, and in its engagement with us, the department certainly didn't flag a concern that state governments were withholding information from them. Obviously, in some cases they had difficulties getting a state government or even a council to agree to be the delivery partner for certain projects, simply because the usual delivery partners were saying, 'This isn't something that we support.'

Senator ANTIC: Is it possible that that was happening, though? Is possible that it could happen?

Mr Boyd: I think it would be hard to say it's not possible for these things to happen. I can recall doing an audit report in this NLT space, probably 12 or 15 years ago, where we pointed out that the state government involved wasn't actually providing full information to the Commonwealth to inform its decision-making. So, yes, it can happen. Where we've seen it, we reflect it in our audit reports. But that's not something we saw in this audit report, no.

Senator ANTIC: Thank you. I have no further questions.

Senator KENEALLY: Thank you to the Audit Office for being here. I might just flag for Labor senators that, with the late start, I don't anticipate we'll be finished with the ANAO by the scheduled time. We might have an offline chat about that.

Could I just go back to the evidence that the Audit Office provided previously to Senator Gallagher: am I correct in understanding, then, that your evidence to us is that the Urban Congestion Fund as a whole lacks a transparent, open competitive process, not just the car park portion of the fund? Is that correct?

Ms Mellor: Yes.

Senator KENEALLY: Thank you. Did I also understand you to say that there are maps of Urban Congestion Fund projects that had been created for the ministers and that that was not just car parks but broader projects within the Urban Congestion Fund?

Mr Boyd: That's right. That was when we were going through auditing the design process, looking at the UCF overall. Maybe I didn't do a good job of trying to explain this to Senator Gallagher. In chapter 2 of the report, which I call the design chapter, the car parks component was part of that. We looked at the design of the UCF broadly, not just the car park component, because it's pretty hard to distinguish between the two. As part of that, yes, they were looking at how the \$1 billion, which is what it started off as, would be divided up across the nation.

Senator KENEALLY: Did you say that map also indicated the party affiliation of the seats where the projects were located?

Mr Boyd: That's right.

Senator KENEALLY: Are you able to table these maps?

Ms Mellor: No. We haven't included them in the report, and we don't table audit evidence outside the report. It's something you could ask the department.

Senator KENEALLY: Did you say—correct me if I'm wrong—that the department created these maps?

Mr Boyd: It could have been a minister's office. What we know is that they were going back and forth using departmental systems. There's a map and there are schedules attached to the map which help you understand the build-up of the map, which is where we can see the schedules on a state-by-state basis and then a project-by-project or TBD basis as to what makes up those aggregate numbers by state and then across the nation, which was done for the purposes of ministers meeting and proceeding forward. But it's important to bear in mind that these maps and the project listings weren't necessarily where things ended up in terms of which projects were, firstly, agreed to be included in the fund and the commuter car parks component and then eventually approved under the NLT Act. It was part of designing the fund process as part of—I hate to say 'journey'—a process by which we got from late 2018—and this map and what sits behind it were in December 2018—to where we ended up, with decisions of government being finalised on 10 April. On top of that, I think Senator Antic was talking about election commitments for the car park component. There were seven further projects on top of those which were decisions of government, which were election commitments.

Senator KENEALLY: Okay. As you say, the maps, whether they were created by the department or created in the minister's office, nonetheless had been to the department. They were under departmental systems, and so they're something we could ask the department for.

Mr Boyd: Yes. Our access powers only give us access to the records of the department, and departments typically provide systems access for ministerial offices to use, particularly in the early part of a decision-making process.

Senator KENEALLY: Yes, thank you. There has also been significant intention surrounding spreadsheets that your report says passed between the department, the minister's office and the Prime Minister's office. You haven't included these in your report either, have you?

Mr Boyd: No. It's probably worth understanding—I think from something Senator Gallagher said earlier; I think you were both involved in some of the committee work on an earlier audit report—these are very different spreadsheets to the sports grants programs. The sports grants program worked through a public call for applications, with a public set of guidelines and merit criteria, and they received, from memory, 2,056 applications; they got another five late ones, but the five late ones didn't make it into the spreadsheets. I think we talked about 28 substantive versions of a spreadsheet going back and forth, including some colour coding, where it would be working through, for each of the three rounds, which projects were to be approved and which were not to be approved. That's a very different program from the Urban Congestion Fund and the commuter car parks component, because there was no public call for applications. It was a canvassing process. The spreadsheets here aren't of a similar nature. The spreadsheets here are state-by-state spreadsheets at a point in time saying, 'Here are the projects we're proposing that be agreed for inclusion now,' and then the spreadsheets were just a list of state by state. So there's no broader thing saying, 'Here are all the potential applications and here's how we assess them.' It's just, 'Here are the ones which are on the table and proposed to be agreed for inclusion today, split by state.'

Senator KENEALLY: Right. Are you able to give us a sense as to whether it included detail like whether it was one of the top 20 marginals or was a Labor or Liberal held seat? Did it have that type of information in the spreadsheet?

Mr Boyd: It still had the identifying information as to the electorate, but the canvassing in terms of—that sort of information was probably more relevant at the time of saying which of the electorates that will be canvassed, rather than at this point, still making sure that the candidates are actually within that population of electorates which are of interest, but not an exercise of then going through that level of detail.

Senator KENEALLY: Okay. Can I come back to that word 'canvassing'. You've used it several times. I'm wondering if you could succinctly describe what canvassing entailed.

Mr Boyd: It proceeded largely from what we could establish via—it was mostly conducted by an adviser in Minister Tudge's office, but, to a lesser degree, within the PMO. It would be a matter of contacting either the local member of the House of Representatives or their office, or, say, the duty senator for four others, or the endorsed candidate and saying, 'The Urban Congestion Fund is looking to fund these sorts of projects. Are there any projects or is there a project in your electorate that you would like us to consider putting on the list?' As I say, not everyone that came forward ended up being funded. I think there was one. Was it Heatherdale that came in and out?

Ms Bremner: Out and then in.

Mr Boyd: Yes, out and then in. There was a little bit of that. It was that exercise of saying, 'Here's the candidates we could—'. We can see that the process didn't start—it wasn't route based; put it that way. A lot of what's done through the NLT framework is about, 'Here are the routes that we're looking to address and improve,' be it in terms of congestion or anything else, 'and here are the projects which will improve that.' That's the normal process you see working up, particularly through the state and territory governments, in terms of what should go on the lists. It was starting from a different direction, if I can put it that way. We can see that, in a sense—I think there was one electorate they canvassed that we don't think even had a railway station in it. So it was very much that approach of starting with the electorate rather than with, 'Here are the routes, and here's where congestion is at its greatest, and that's why we need to address this.'

Senator KENEALLY: So, basically, as you just said, sports rorts—sorry, the sports funding—was an open, competitive process where people could at least put in applications, and it started with the premise of looking to fund sports projects. Here you've got a canvassing process whereby, rather than starting with where the congestion need is, you start with the electorates and canvass the members or the candidates?

Mr Boyd: But, to be fair, early on in the program, as we set out in the audit report, there was discussion. In fact, the Treasury department was actually advocating that we should have had a call for applications, because you can actually, under the NLT framework, successfully run an open competitive process. We audited a program called the Bridges Renewal Program about 2015 or 2016 which was also under the NLT framework and that's exactly what was done there. I believe further rounds of that program were actually being conducted around the

time this happened. Under the NLT Act framework, you run an open competitive process inviting people to submit applications. There are published guidelines and published criteria. The thing we found a bit perplexing, which is what we discussed in the audit report, is you've got that example—and we were quite complimentary in that audit report in many respects, including of the ministerial decision-maker, Minister Truss, at the time, in terms of how he went about making his decisions drawing off that open competitive application process with a merit assessment by the department. We had Treasury advocating for that and we had the precedent of the Bridges Renewal Program, which I understand still runs that way. But it was the department of infrastructure that was pushing back, saying, 'No, we don't think the program should run that way' for the car parks.

Senator KENEALLY: That's something we might ask the department about later on today. You mentioned the Prime Minister's office, and your audit report repeatedly references the role of the Prime Minister's office. Can I ask you about table 3.1 on page 41 of your report? It refers to an exchange of letters between the ministers and the Prime Minister on 10 April 2019. As the table notes, the caretaker period commenced on 11 April 2019. At what time on 10 April 2019 were letters exchanged between ministers and the Prime Minister about the selection of 27 car park sites worth \$389 million?

Mr Boyd: It's probably worth just emphasising that from our perspective there's nothing unusual about that 10 April correspondence in the sense that—this is partly why we're a bit perplexed with the department of infrastructure's response suggesting that the decisions on 10 April were election commitments. The Prime Minister's letter of 10 April, which was actually responding to a letter from the finance minister, which itself picked up letters from various portfolio ministers, including with Infrastructure, with various proposals for how money should be allocated post the 2 April budget—this is ordinary business of government. This is on ministerial letterheads. We saw the same process happen on 18 December 2019 in this program post MYEFO. This is standard government decision-making in terms of these are the projects that the ministers are asking the Prime Minister to agree to. So, to us, we're always quite perplexed as to how they could ever be considered to be election commitments.

In fact, it always perplexes us too that, whilst the department's response to us in the audit report formally is that they're election commitments, if the department actually looks at its own records of the time, it was telling itself they weren't election commitments, that they were decisions of government to go through PEFO. The department's own incoming government proofs say to government that these are PEFO projects, not election commitments. They separately put out the election commitments. There was never anything to us to suggest that these were considered election commitments until we started looking at the *Hansard* of the department before estimates. We first raised with them in late January this year, so six months before we tabled, saying to the department: 'Why do you think these are election commitments? They're in PEFO. If they're election commitments, they shouldn't be in PEFO. The secretaries of Treasury and Finance have made a mistake they shouldn't.' So we looked at the department's internal documents from back at the time and department was telling itself they're decisions of government. But they're in PEFO.

Senator GALLAGHER: Mr Boyd, they were also allocated in decisions taken but not yet announced in those documents as I understand it from your audit.

Mr Boyd: Yes, and that's why they're in PEFO. The Charter of Budget Honesty Act requires that PEFO pick up decisions made but not announced.

Senator GALLAGHER: That's right.

Mr Boyd: Clearly, to us, it's uncontroversial that the Prime Minister responded to a letter from the finance minister which picked up a whole range of programs and proposals, not just infrastructure ones, but in infrastructure not just the Urban Congestion Fund—community development grants and a whole range of things. The Prime Minister said, 'Yes, I agree with your proposals,' so this is the Prime Minister making a decision; it's not the Prime Minister making election commitments. It's him making a decision as the head of government.

CHAIR: Thank you, Senator Keneally. that takes us to the end of your time.

Senator KENEALLY: I apologise, Chair, I did ask a specific question about what time those letters were exchanged. I don't know if the Audit Office has that or can take that on notice, but I really want to get that detail? I appreciate all the answer which is why I didn't jump in.

Mr Boyd: We can confirm on notice, if you wish us to, but we don't have the time, because they were letters being exchanged rather than emails being exchanged. We know the date.

Senator KENEALLY: Okay. Thank you.

Senator RICE: Thanks for your evidence so far, Mr Boyd and Ms Mellor. I want to go to the very beginning of the program. You mentioned in paragraph 3.39 the request from the minister's office in September 2018, which ended up with a briefing from the department that said:

... the Government has not committed to a stand-alone park-n-ride program to date. Unless a carpark is included in the scope of a funded rail project, it will be the responsibility of the state government.

What was the nature of that request from the minister's office? Was it about whether car parks could be funded under the Urban Congestion Fund or was it about a specific project?

Mr Boyd: We might have to take that one on notice. I don't recall that one off the top of my head.

Senator RICE: You don't know?

Mr Boyd: We're looking.

Senator RICE: To me that was the beginning of the idea of having the commuter car park fund. I just want to go to what prompted it.

Mr Boyd: It indicates to me that part of this was in preparation for a meeting with one member of parliament looking at possible candidates in that electorate. I think that might be the context in which that advice was given.

Senator RICE: Right from the start then, it seemed it was seeing whether for a particular electorate it might be possible to fund commuter car parks?

Mr Boyd: This was from a briefing the department prepared for a meeting that was to be had with by the minister with one particular member.

Senator RICE: Do you know what the process was continue with regard to that particular member and that electorate? If it started with a particular meeting regarding a particular electorate, what was the process by which it then expanded into a broad commuter car park fund?

Mr Boyd: I am not sure I would not say there was a direct and single line from that point in time. The other thing going obviously was looking at the UCF more broadly, the notion that you would have a commuter car park component specifically within the broader UCF. I believe that came to full fruition many, many months later. I think the 2 April 2019 budget is when we had the \$500 million set aside for the commuter car park component within that, and, for most of the time when we were looking at the canvassing process, they were often referred to for a period of time as being a public transport optimisation package within various states. You'd then have one or more dot points of possible car park locations within that, but they were seen as being a type of project within the broader UCF. There wasn't, from what we can see, a one-for-one between that meeting then leading to a car park component. Much happened between then and the 2 April budget, when the car park component was formally and finally formed up as being a \$500 million component, which obviously grew a bit after that.

Senator RICE: When did the canvassing program start?

Mr Boyd: Around September or October 2018.

Senator RICE: So it's much the same time as this initial request from the minister's office to the department?

Mr Boyd: Yes. You could see some of the proposals that were coming back were specific to car parks. At some point in time—I can't remember the exact date—the records show there was also some consideration about the fact that the Australian Labor Party were also looking at potentially funding car parks and so forth, and so that became an input as well.

Senator RICE: What was the electorate that the initial briefing from the department related to?

Mr Boyd: That was La Trobe.

Senator RICE: Do you have any clarity on what the prompt was for setting up the project as a broader project? If it wasn't for this one particular electorate that this briefing came from, was there any evidence? You say that the program seemed to start with the electorates, rather than the routes. We know, from the canvassing, it was looking at those top 20 marginal seats, as you described it, so what's the evidence as to where the program was initiated. Did it come as a proposal from the minister's office, or was the department involved in proposing it?

Mr Boyd: Senator, are you asking about the car park component within the UCF, or the UCF more broadly?

Senator RICE: Yes. The commuter car park program within the UCF.

Mr Boyd: What I was trying to say earlier was that we couldn't see a one-for-one between this meeting and any other particular individual event. It seemed like, over time, the project lists were being developed through the canvassing, but also there was regard being given more broadly—I mentioned the Australian Labor Party was looking at funding some car parks, and the records show that was an input as well. Various things came into play over a period of time regarding the number of car parks on the project list. If you look at the first tranche—I call it

the first tranche—under the UCF—I mentioned there were presentations in December with a map and so forth. That then led to a 19 December, I think, letter from the then Deputy Prime Minister and Minister Tudge to the Prime Minister seeking approval of the first tranche of projects under the UCF, which included some car parks. I think there were 11, as table 3.1 in the audit report points out, which the Prime Minister agreed to on 11 January.

There were then some ones—it's like there were some that were not in the tranche itself, but some announcements and individual projects. The second major tranche was the one that was finalised on 10 April, where you had a further 27 car parks. The car parks were simply a component of the broader UCF at each of those points. It's just, by the time we got to 2 April, we had a certain amount of money hypothecated for a car park fund within the broader UCF, rather than up to that point car parks were some of the projects within the broader UCF. That design chapter, as I called chapter 2 earlier, is part of the reason why, when we're looking at all of this process, we're looking at the broader UCF, because, for most of that canvassing period, there was no car park component. It was simply the UCF and a series of projects—be they intersection improvements, car parks or various other things—were being put forward for consideration.

Senator RICE: So that top 20 marginal seats canvassing project, which began in September, was then more broadly for the UCF. Is it fair to say then that, as car parks came up as being projects that were being canvassed and being identified, that initiated the proposal for the Commuter Car Park Fund as a standalone fund?

Mr Boyd: I wouldn't necessarily think we could say the evidence shows there was a one-for-one causality with any particular thing. Clearly the canvassing was one input, but the notion of having a separate commuter car park component within the UCF, which then led to the 2 April budget decision announcement, was something that wasn't being proposed in 2018 or in the early part of 2019. It was something which, over time, grew and came into focus. That's why I say that when we saw the car park component was being hypothecated with the \$500 million, as it then was, that was really in the context of that 2 April 2019 budget.

Senator RICE: Right. When did the Prime Minister's office first become involved with the process, as far as you could see?

Mr Boyd: Obviously the Urban Congestion Fund itself was a design thing going right back to—the Urban Congestion Fund was coming forward as a potential thing to be established. There was the usual process of engagement between central agencies, including ministers, as it went along. Or are you asking about the canvassing in particular?

Senator RICE: Yes, with the PM. You're saying that, right from the very beginning, the Prime Minister's office was involved in the design of the project of the Urban Congestion Fund being used to fund projects in the top 20 marginal seats.

Mr Boyd: Okay. I was trying to understand whether you were talking about the canvassing in particular. While there are some criticisms in the audit report about the way the department of infrastructure in particular was advising government in establishing the broader fund, we didn't see anything there which was unexpected, if I can put it that way, in how central agencies and central ministers engaged in the policy decision-making process to establish an urban congestion fund. The bit that was different to what you often see in terms of the project identifying candidates to be funded was really that canvassing, which started in September or October 2018.

Senator RICE: But the Prime Minister's office was involved, as you said, in the design of it, so it was saying that this was a program that it could use, via the canvassing of coalition members of parliament and coalition senators and other marginal seats, to identify projects to be funded in those seats?

Mr Boyd: We didn't see that, Senator. What we saw, as I tried to say earlier, was the initial notion about whether you would have an open competitive process to being able to get projects on the table was something that the department of infrastructure was advising against. It wasn't being advocated against by the PMO; it was the Department of the Treasury saying, 'We think this approach has merits,' and the department of infrastructure saying, 'We don't agree and we don't support that.' That's not what was put to ministers for decision. Ministers weren't asked to decide upon an open and competitive approach to decide to go the other way; it was the department of infrastructure arguing that what should be put to government isn't a competitive, open and transparent approach. The canvassing was a different exercise entirely, which happened later.

Senator RICE: When was the Prime Minister's office first involved in that canvassing project?

Mr Boyd: From that September-October 2018 period. The office that was primarily leading the canvassing for UCF, and car parks in that, was Minister Tudge's office, not the PMO. The PMO was involved in it, but the office that had the lead on this was Minister Tudge's office. So it wasn't the PMO, but there was involvement.

Senator RICE: When you say the PMO was involved in it, can you expand on what that involvement looked like? You talked about a senior adviser having been involved.

Mr Boyd: The evidence shows that, in some cases, it was the local member or duty senator who was actually engaging with the PMO, who would then pass that through to the minister's office, as well as obviously being involved in that process. 'Okay, which projects, based on the canvassing, are we going to propose that the Prime Minister agree to at this point in time?' There was involvement there as well.

Senator RICE: So the Prime Minister was going to sign off, essentially, as to which projects the PMO were supporting being put forward?

Mr Boyd: Yes. As we say in the audit report, there are 47 car parks sites. We say seven of those are election commitments, and the department agrees with us on those seven at least. Of the remaining 40, they were based on the correspondence where the Prime Minister would ultimately write back to Minister Tudge, the Deputy Prime Minister, the finance minister and the Treasurer, saying, 'I've agreed to these projects being included.' But he was doing that on the basis of having received formal letters. The DPM and Minister Tudge jointly signed the 19 December one. Minister Tudge signed two letters, I think 8 April and 10 April, for the second tranche, but that was then picked up more broadly by the then Finance Minister in a broader portfolio submission, because, as I was saying earlier, this is how government decision-making around budget and MYEFO time typically happens—nothing unusual there in that respect. You are needing to seek the Prime Minister's agreements to then be included as being the candidates.

Senator RICE: Is there any indication that the Prime Minister was involved in the canvassing work that informed the project selection?

Mr Boyd: The Prime Minister personally?

Senator RICE: Yes.

Mr Boyd: No.

Senator RICE: Particularly with the final decision, so after the budget—and we had this week when all of these commuter car park projects were being signed off on the basis of the top 20 or 23 marginal electorates. This was at exactly the same time as we had the sign-off of all the sports rorts projects—similarly with the minister and the Prime Minister's office working together to be signing off on these projects that were being decided on the basis of electorates, rather than any objective process.

Mr Boyd: Just to be clear, by the time we got to 10 April the population of electorates being looked at was 29. The top 20 marginal was where it started off in the—I call it the 'to do list' back in September, October 2018. By the time we got to April there were 29 electorates, through the UCF—as well as car parks, because not every electorate has a rail line in it or a railway station—being canvassed: 23 coalition and six others, one of which is held by Centre Alliance. The population there is 29, not 20 or 23.

Senator RICE: It is 29 but they're 29 targeted seats that the coalition is either wanting to keep—they're marginal seats or they're ones they're wanting to win and it's happening at the same time as the same thing is going on in sports rorts—

CHAIR: Senator Rice, I will have to call time. Senator Rennick?

Senator RENNICK: What benchmarks does the Audit Office use to say that the car park fund is not effective? What are your specific outcomes?

Ms Mellor: We have an audit objective, an audit criteria, against which we audit, and based on the evidence and the findings against those criteria that's how we've made that assessment.

Senator RENNICK: I noticed in your report that you didn't state the number of car parks that were being built, or the average cost for that number of car parks for the entire program.

Mr Boyd: We do.

Senator RENNICK: So do you know how many are being built in the one proposed—the 47 car parks? How many spaces?

Mr Boyd: Yes. Do you have the audit report in front of you, Senator?

Senator RENNICK: Yes.

Mr Boyd: Probably the easiest and quickest way to go to that is there is a one pager which is called 'overview'.

Senator RENNICK: What page number?

Mr Boyd: It's on page 6. There is a section which is 'What did we find?' There are five arrow points. By 31 March 2021 construction had been completed at two of the 47 sites and had commenced at a further three sites. In the detail of the report we point out there are two sites where the project has been cancelled. We were talking

earlier about this with Senator Antic, about their delivery partners and so forth. As I was explaining, under the NLT Act framework for the infrastructure investment program, what the department of infrastructure has to do, once it has been agreed by government that a project is on the list, to go on to the national partnership agreement is it has to get a project proposal from the delivery partner so it can then assess it. There are 11 where the department have not yet got a proposal—

Senator RENNICK: So sorry to interrupt. I guess I am focusing on outcomes. My understanding is we're going to be building about 13,000 car parks—just under 7,000 in Melbourne, just under 4,000 in Sydney, about 1,200 in Brisbane and 800 in Perth. So that works out at about \$660 million. That divided by 13,000 car parks is about \$50,000 per car park. That would be my first benchmark. I am going to benchmarks things. If I were in the private sector and I wanted to generate an outcome I would look at the actual return on investment. If I wanted daily parking in the city I would be lucky to pay \$40 or \$50 a day—maybe \$40 five days a week—so \$200 bucks a week, \$10,000 a year. That tells me that I get a return on my investment for these car parks in five years. This report focuses a lot on process. To me it doesn't focus a lot on the outcomes.

Ms Mellor: If the department had done that work, we would have assessed it. The report says they didn't do it.

Senator GALLAGHER: They didn't know.

Senator RENNICK: It's funny, because I've managed to find this data.

Ms Mellor: That would be the sort of data you would expect the department to use in providing advice to the government. We don't supplant the data; we don't stand in the department's shoes. We look at what they did. And that's not what they did.

Senator RENNICK: My question to you is: do you think \$50,000 per car park—and I've just quoted financial figures there; there are also the benefits of less congestion on the road, people getting to work more quickly and having a better quality of life. Having assessed the figures that I just gave you, do you think this project is worthy of going ahead?

Ms Mellor: We're not auditing what you said; we're auditing what the department did. At table 4.3, after the minister asked for benchmarking information, we've summarised the results of some of that. The department doesn't come up with the sort of information that you have come up with, and we're not auditing your information. We're auditing what the department did, and we're providing to the parliament the shortcomings in what the department did. We're not standing in their shoes and doing their job.

Senator RENNICK: The impression that this report gives is that the overall program isn't effective, and I would disagree with that.

Senator GALLAGHER: What a surprise!

Ms Mellor: That's what the findings of the audit are.

Senator RENNICK: I think you'd find most working-class people, if you asked for more car parks out in metropolitan Australia, would agree with the idea of building more car parks.

Ms Mellor: We don't ask working-class people.

Senator GALLAGHER: Maybe not. Just not in Liberal seats—

Senator RENNICK: Can you not interrupt, Senator Gallagher? I didn't interrupt you.

Ms Mellor: What we do is audit what the department did. You can ask the department about the outcomes. We're telling you what they did and what they didn't do.

Mr Boyd: Senator, I'm not sure where you've got your numbers from; it may be that you've looked at the public announcements as to each of the projects, what they would achieve and for what amount of dollars. As for the audit report, which is what the Deputy Auditor-General is pointing to, what we audit is what's coming as—which is why I started running through those numbers earlier. Of the 47, 11 have project delivery partners yet to come forward and say, 'Here's what we can do at this site.' Commonly, where project delivery partners have come forward with a proposal, it's going to cost a lot more than the announcement, so I'd suggest that sort of analysis needs to be adjusted to reflect what will be the actual likely cost; deliver a lot fewer car parks; or be unable to deliver car parks at all, which is why two projects have already been cancelled, so you can't count those in your analysis.

As the Deputy Auditor-General is saying, the department hasn't done that work. In fact the department obtained benchmarking only in response to the minister saying, 'I'd like to have some benchmarking done here, because I'm concerned that projects aren't going to be delivered for the cost that has been announced or aren't going to give us the number of car parks that have been announced for the cost.' I think it's very difficult to then do an analysis that

says a program is successful and effective based on announcements, when, clearly, the learned experience here has been that the announcements aren't standing up to scrutiny when the project proposals come forward from the delivery partners.

Senator RENNICK: We haven't got to the end of the road yet, so you can't make that judgement until they're built and they're used.

Mr Boyd: Going back to what the Deputy Auditor-General was saying: this is the judgement the department has been making based on what has been coming forward. We can audit that and offer you a view on that, but what we can't say is that, if we just add up the public announcements as to dollars and car parks, on that basis it's a success, because the learned experience with the program is that the projects—if they can be delivered—can't be delivered for the price or can't be delivered for the number of car parks that were promised.

Senator RENNICK: There has been some commentary around a focus or bias towards south-east Melbourne versus north-west Melbourne. Weren't you aware of the \$9.1 billion that the federal government was spending in north-west Melbourne for other infrastructure projects? Do you want me to name them?

Mr Boyd: No, I don't need you to name them. We're aware that the Commonwealth isn't just funding car parks in Melbourne or anywhere else, yes.

Senator RENNICK: That report would give the impression that we were favouring south-east Melbourne, but you needed to put it into a wider context of the millions of dollars being spent across north-west Melbourne as well. Wouldn't you agree that, for greater—

Mr Boyd: What we put this in the context of was the Urban Congestion Fund, which was set up with certain objectives and a set of investment principles and, within that, the Commuter Car Park Fund, which was set up to achieve certain things. We then looked at how the implementation of those two things occurred compared to what the investment principles were looking to achieve, and what you don't see is an alignment. We say the investment principles seem like a good set of principles. They could have been used to develop merit criteria to assess applications, but they weren't. What happened then is we went from an approach that was focused on what we wanted to achieve, in terms of 'congestion busting'—I think that was the phrase used—to a different exercise in terms of asking particular people in particular places what they would like to see funded, without an attempt to align that up against the investment principles for the program.

Senator RENNICK: Melbourne, for example, has 1.4 million people who can't get access to train stations. Sydney has one million. I notice that that KPI wasn't listed as one of the reasons for the car parks in the audit report, either—

Mr Boyd: But, again, to go back to what the Deputy Auditor-General was saying, we don't stand in their shoes and re-do the department's work for them. Was this the film that the department or those involved in canvassing the projects put on what they were doing to explain why it was only these electorates being canvassed rather than those ones? No, it wasn't.

Senator RENNICK: That didn't really answer the question. If there are 1.4 million people who need access to train stations in Melbourne, versus one million in Sydney, that's part of the justification for building more car parks in Melbourne. That's a fair argument, right?

Mr Boyd: Senator, I'm attempting to answer your question. What I'm saying is that that argument isn't the argument that was put forward at the time as to why the significant majority of the funding should go to Melbourne rather than to Sydney or any other city. That wasn't part of the justification at the time. As the Deputy Auditor-General was saying, we don't re-do the work of the department. We look at what was done and audit that.

Senator RENNICK: Did you interview staff from the department?

Mr Boyd: Yes.

Senator RENNICK: Which staff did you interview?

Mr Boyd: I don't think I can give you—

Senator RENNICK: Okay. Don't answer that question. Have you got documentation?

Mr Boyd: Our engagement was principally with the first assistant secretary responsible for the program down. We had regular meetings with him and his senior staff, as well as the audit team engaging day in, day out, in terms of everything from how you go about accessing the records to examining them.

Senator RENNICK: Have you got documentation of all your conversations with the department?

Mr Boyd: Of course.

Senator RENNICK: Could I get you to take that on notice so I can read it? One of the questions I would have thought you would have asked is: how many people are these car parks servicing?

Ms Mellor: Senator Rennick, we don't provide our audit evidence to the parliament. It's confidential. We put things in the report. If the department had done an assessment based on population, we would have said that in the report.

Senator RENNICK: Did you ask the question? That's the thing. That is why I want to look at what you spoke about and what questions you asked. If you didn't ask certain questions—

Ms Mellor: We looked at the records to see what advice was going from the department to the government on the rationale for supporting the assessment of certain places, and that's set out in the report.

Mr Boyd: What you see in the tabled report is the end of our consultative process with the department. There's engagement at the officer level, from reasonably senior levels down to relatively junior levels, as we proceed with the audit, but we go through two drafts before we table, as a minimum. There's a thing called 'report preparation papers', which doesn't include a summary but is the early version of the chapters, as well as the formal proposed report, which is what you see the response to. We put the sorts of things we found by looking at the records and talking to people at the time to the department twice formally before we tabled. If that work had been done but for some reason hadn't been evidenced but was there anyway, the department is able to put it back to us.

You will see at various points in the audit report where there are things that the department says it did it, but the records don't show that they did it. This audit report isn't unusual in this. It's common to many audit reports. They will put that to us. If it's relevant and appropriate, we'll reflect that in the audit report and say, 'We couldn't see this, but the department advised us X.' We didn't see the department do what you're talking about at the time, and when we made our audit report with the criticisms of it the department didn't come back to us and say, 'You can't see it, but in addition to what you can see we did this as well.'

Senator RENNICK: In your audit report you state that the department didn't consult with states and councils. They argue that they did consult with state governments and councils—

Mr Boyd: I think our finding is a bit more nuanced than that.

Senator RENNICK: Could you explain that further then, because they're disputing that point.

Senator GALLAGHER: Who's they?

Senator RENNICK: The head of the department—

Senator GALLAGHER: Okay. I just wanted to know—

Senator RENNICK: In the appendix, there's a letter that says he consulted. It's in the report, if you read it.

Senator GALLAGHER: I have read it.

Mr Boyd: As I was saying earlier, if we can't see something, the department will put it back to us, and we'll look for evidence. As we say in the audit report, we could see that there was some engagement with New South Wales, in terms of what they might like to see as part of the fund, but we couldn't see something similar with the other state and territory governments. What we did in addition to that, because obviously if there is stakeholder engagement there are at least two parties to the engagement, we also went through an exercise of actually individually, separately ourselves, writing to the relevant state and territory departments and asking various questions, including, 'What engagement did the Commonwealth have with you in terms of the project identification process?'

Almost without exception, where states responded to us, they said: 'We didn't have any engagement at that stage. We wish we had had engagement. We think we could have added value with engagement, including by actually drawing attention to some of the delivery risks, what can and can't be done and where we think the priorities are.'

Senator RENNICK: Isn't this all happening now? Isn't this part of the ongoing process?

Mr Boyd: It is but it isn't—in the sense that it is happening in the context that the Commonwealth has said, 'These are the projects we wish to fund and see delivered.' If you think about it, that is part of the reason why we are sitting here now, more than two years after the last tranche of projects were decided upon to build car parks. For 11 of those 47 sites, we are yet to get a project proposal report out of a delivery partner. That's a long period of time to wait. What that reflects—this is based not just on our analysis but what states and territories have said to us in return—is that, in some cases, they are not willing to take on delivery of the project, for various reasons, and, in other cases, they can't yet work up a proposal to have assessed by the Commonwealth. You would expect that you would have had project proposals from most if not all of the—

Senator RENNICK: We've got 36. So we've got the majority—

CHAIR: I'll have to make this your last question, Senator Rennick.

Mr Boyd: We've got the majority. But the majority of the majority are planning and scoping proposals, not delivery proposals. So the majority of delivery proposals that have come forward are not saying, 'We're ready to construct.' Invariably, they're saying, 'We need to do more planning and scoping work'. That's because they are not sure of the practicalities of delivering a car park at this site, for that cost and with this number of spaces—whether that can be done and, if so, how it can be done. So it's not quite as healthy as 36 might sound. It's actually less than that. It's 34, because you've got to take out the two cancelled projects as well. So, for those 34, most of those are yet to get a delivery proposal; it's a scoping proposal.

Senator RENNICK: And a lot of that would be dependent on state government regulations, would it not?

Mr Boyd: When you look at the scoping proposals—and I appreciate that you haven't seen them—they are really the issues of concern that they are flagging. It is more: how can we actually deliver what's been announced for the cost? Invariably, the state governments aren't looking to chip in their money for a project they had nothing to do with coming forward—

Senator RENNICK: But we're 100 per cent funding it anyway for all bar one—

Mr Boyd: Yes—which, as I was saying earlier, is a bit unusual for this program—

CHAIR: Sorry to interrupt, but I'm going to have to call time. Senator Gallagher.

Senator GALLAGHER: Can I go to pages 39 and 40 of the audit, where you talk about the Gosford and Mitcham sites. These were the two sites for which, from departmental records, the nature of their selection was unclear. You say that, when you asked for evidence of authority to select the site, the department sent you the joint press release from the Prime Minister and the minister dated 7 February 2018 announcing the funding for those sites, which included Mitcham. Was there any other evidence provided, or was it simply the press release?

Mr Boyd: That was it. You'd expect we already had that. That was part of the reason why we asked, 'Is there something more?' The only thing we could see was the press release. Most of these—say 38 of them—went through a fairly standard executive government decision-making process of an exchange of letters between ministers leading to a decision. We couldn't find that. So we weren't asking the department to give us a public press release; we're asking them, 'Where's the record of the executive government decision-making which led to the press release?' They couldn't provide us that.

Senator GALLAGHER: So you have not seen anything—

Mr Boyd: Not only have we not seen it; we asked them for it because we couldn't see it.

Senator GALLAGHER: And did they say the press release was the only document they had to explain that decision?

Mr Boyd: My colleague is just pointing to the fact that there were emails exchanged which said they had approval to swap out Heatherdale for Mitcham.

Senator GALLAGHER: From where?

Mr Boyd: An internal email saying they had approval from PMO that they could make the change, but to us that still didn't give us a record of government decision-making. It's people referring to a decision having been made, but we were looking for the actual record of the decision.

Senator GALLAGHER: That's right. So Heatherdale was swapped out for Mitcham?

Mr Boyd: But came back in later.

Senator GALLAGHER: But the only information we've got is an email from the department, saying the PMO had authorised that, and the press release.

Mr Boyd: They said a formal note would be circulated, but we couldn't find a formal note, and the department couldn't provide it to us.

Senator GALLAGHER: A formal note from the PMO, presumably, or the minister to the department to direct them?

Mr Boyd: There's nothing clear on it in an available formal note.

Senator GALLAGHER: Do you know how much money was involved in the Mitcham car park?

Mr Boyd: It was \$15 million.

Senator GALLAGHER: A nice round number these car parks seem to come in at, don't they? So \$15 million—

Mr Boyd: Sorry, Senator, that is something we were trying to say with Senator Rennick earlier. That was part of the challenge with the program. The way it was built up, with the individual projects, wasn't on the basis of 'here's what you'll need'. When you look at the benchmark results, the benchmark results give you an indicator, but, as the department very much likes to say, that doesn't take into account any site-specific costs. So when you're seeing a similar dollar figure in different locations, it's not quite like a pick-list menu, but the problem is it's not something which is built up based on a—

Senator GALLAGHER: Cost.

Mr Boyd: Yes.

Senator GALLAGHER: On evidence.

Mr Boyd: Yes.

Senator GALLAGHER: Normally when you cost a car park—and I have done this in a previous career—you would have quite a detailed assessment of the site and you would come to a figure. I don't think I ever recall them all landing at the same price, a \$15 million round number. So your point here is that it's almost that money has been allocated, and then they've done the work about how that's going to fit, which leads to different costs for different sites?

Mr Boyd: The real problem, back to Senator Rennick's question, comes when you look at that sort of analysis. We can see why you might have hoped the department would do that sort of work, because if you've got a fixed dollar amount and a number of car spaces, once you have specified the two at a locale, it's very hard not to have—something needs to give, to make it all work. There are engineering challenges, there might be—

Senator Rennick: It takes time.

Mr Boyd: It does.

Senator GALLAGHER: So \$15 million for Mitcham, and the only document you can find to support that decision is a press release.

Mr Boyd: Can I just clarify: the only document we could see, and the only document the department could provide to us, was the press release as well. We'd already seen the press release, but we said to the department, in effect, 'There must be something more than this.'

Senator GALLAGHER: Have you ever seen a decision of government like this, where it's \$15 million and the only evidence you've got is a press release?

Mr Boyd: That sort of approach is more akin to what we often see with election commitments. Over time, we've audited election commitments, including programs established solely to fund election commitments. That's not uncommon in that sort of world, but when we're well before caretaker, and government decision-making is proceeding as per usual, no that's not something you expect to see.

Senator GALLAGHER: No, not something you'd expect to see. That's why I asked whether you had ever seen this before, where \$15 million of public funds would have been allocated and spent on the basis of a press release from the Prime Minister?

Mr Boyd: My colleague has just pointed out to me that we did see another one in UCF, but if you're asking have we seen it in other programs, probably. I've been around too long; I've seen a few things.

Senator GALLAGHER: Sorry? So aside from another project in the UCF, you've not seen this practice utilised across government before.

Mr Boyd: It's certainly not a common practice, no. I wouldn't say that I'd never seen it before.

Senator GALLAGHER: Were there any car parks approved that didn't have a railway line or a station as part of that electorate?

Mr Boyd: No.

Senator GALLAGHER: So all of the commuter car parks—

Mr Boyd: There was one canvassed where we don't believe it had a railway line or a station in it.

Senator GALLAGHER: Did that get funding?

Mr Boyd: It got other UCF funding, but not car park funding.

Senator GALLAGHER: Right. But, for the purposes of the car park funding, every one that was supported did have a railway line or a station as part of that electorate?

Mr Boyd: The nuance there is probably that there were a couple of the Sydney ones where the proposal came out of the electorate of Hume, but the actual stations aren't in Hume, because the rail line runs to Sydney and the

stations being put forward out of the member for Hume's office were actually in neighbouring electorates on the line to get to Sydney. Does that make sense?

Senator GALLAGHER: Right. And they were supported?

Mr Boyd: Yes.

Senator GALLAGHER: On page 54, it says:

- 35 sites were located in 14 of the 29 Federal electorates canvassed;
- two further sites located in neighbouring electorates—

Mr Boyd: Which is what I'm talking about—yes.

Senator GALLAGHER: Okay. It goes on:

- six sites were put forward for funding consideration by the office of the Federal Member, without being canvassed.

So these are people that fall outside that official canvassing process, are they? They're just direct entries into this plan?

Mr Boyd: Yes.

Senator GALLAGHER: And that includes the member for Hume, Mr Taylor. He managed to just submit a couple of sites, and the Treasurer also. How did they do that? Was that just a letter or an email, saying, 'We'd like these four sites,' in the Treasurer's case?

Mr Boyd: There was email correspondence in each of those instances.

Senator GALLAGHER: Okay. And they just nominated the sites or the budgets, or both?

Mr Boyd: Both is my recollection.

Senator GALLAGHER: So the Treasurer put forward four sites in his electorate, with budgets attached to them but without any cost analysis done?

Mr Boyd: There is a back and forth there in terms of putting forward sites and dollars, and sometimes things change a bit over time. I can't recall there being changes for those particular ones, no.

Senator GALLAGHER: Okay. But it wasn't effectively a proper costing of the project.

Mr Boyd: No, there was nothing of that ilk.

Senator GALLAGHER: There were no proper costings done here at this stage.

Mr Boyd: And that's what you see then with the delays, we suggest, in terms of the project proposals coming forward, once you get to a delivery partner. In some cases you could see there was some engagement with the local council or, say, the New South Wales government, but in many of the cases there hadn't been. So, once you get to the stage of saying, 'We've announced we're going to build a car park of X spaces for Y dollars at this location,' that's been agreed to. That's why subsequently there are some challenges in getting project proposals from delivery partners, saying, 'Will I take this on? Do I think I can do it for that cost and deliver that number of spaces?' In some cases, it's getting a site. There's a map in the report of one case where there are various sites—this is the Urban Congestion Fund; we're not building car parks out in areas where there's a lot of surplus land. Invariably, if you're not extending or increasing an existing location, you've got to find somewhere to construct it.

Senator GALLAGHER: Yes. Were the budgets that had been allocated similar in size when they came through this process?

Mr Boyd: As I said, I wouldn't quite call it a menu or a pick list, but \$10 million or \$15 million was a fairly common figure to seize upon.

Senator GALLAGHER: For a car park—

Mr Boyd: Yes.

Senator GALLAGHER: or for anything?

Mr Boyd: In the other UCF ones, you're going from signalling intersections to much bigger jobs, so there was a lot less homogeneity.

Senator GALLAGHER: For the car parks, there was a standard menu of \$10 million to \$15 million?

Mr Boyd: Yes, that was quite a common sort of thing—and how many hundred car spaces you'd get for that.

Senator GALLAGHER: Did they have a formula for that as well?

Mr Boyd: I wouldn't really call it a formula, because you can't divide dollars by the car parks and come out with a ratio. That's the sort of thing we look at.

Senator GALLAGHER: No. I understand. So it was self-nominated, say, by the Treasurer, that 'for 15 million each I could get four of these for so many car spaces'.

Mr Boyd: Yes, that sort of thing.

Senator GALLAGHER: And nobody has any idea where that kind of estimate came from?

Mr Boyd: No, and that's the challenge you then face in getting a project proposal from a state government or a local council to deliver something, with their being told, 'We need X hundred car spaces for Y dollars in this location.'

Senator GALLAGHER: It looks pretty dodgy to me.

Senator Rennick: It's called 'federation'.

Senator GALLAGHER: It's not called 'federation'; it's called 'rorting'.

Senator Rennick: It's not rorting.

Senator GALLAGHER: It's professional rorting. That's exactly what it is.

Senator Rennick: Excuse me, Senator Gallagher. Excuse me, Chair.

CHAIR: Senator, we'll run out of time.

Senator GALLAGHER: I've got another section, thank you, Chair. It's section 27, and comes—

CHAIR: This is the last question please, Senator Gallagher.

Senator GALLAGHER: I haven't had 15 minutes, Chair. I have one section, and I'm happy to come back. I am trying to facilitate this hearing, but if government senators are going to take up a lot of time, then we are going to be here a lot longer or another day to do this.

CHAIR: Senator Gallagher, the Labor senators are getting more time than anybody else. I'm very carefully keeping a record of that. Please continue with your questions. We all have other things to do.

Senator GALLAGHER: Thank you. I am trying to work with you. It's paragraph 2.27, 'Informing the targeting of the initial \$1 billion'. We now know there's this map of Australia that's basically informing a lot of the decisions with allocations. At the end of your analysis, you find that only six per cent of the projects, so only nine of the 155 projects, approved to or committed to under the UCF were put forward by the department. There's a series of interactions between the department and the minister's office sending documents to each other. You allude to one in the text: 'Happy to exchange lists when you're ready.' That went from the department. So the department had a list, but they knew the minister's office had a list and they are saying, 'Let's exchange that'. Is that a correct interpretation of that section?

Mr Boyd: Yes. It went back and a forth a bit.

Senator GALLAGHER: They sent over 19 projects and then added in another 25. Then you say that, at the end of November, the department emailed the minister's office, and there were now 51 projects, 24 of which had been identified by the minister's office. Does anyone know where they came from?

Mr Boyd: We can trace them through the work we've done to see how, largely, they came through that canvassing process which was ongoing.

Senator GALLAGHER: So this canvassing is not just the car parks; it's moved into the Urban Congestion Fund.

Mr Boyd: Sorry, I haven't been clear enough. The canvassing was never just the car parks; the canvassing was broader UCF, of which the car parks were, obviously, a component.

Senator GALLAGHER: So these 24 which now come into this document are from the canvassing of those members, the 29 electorates that were canvassed as part of the work.

Mr Boyd: There weren't 29 electorates at that point, because, as we were talking about a short time ago, some people—

Senator GALLAGHER: This is back in November, so it's still 20, is it?

Mr Boyd: It was growing over time, and then you had a couple of electorates who came forward themselves and were included but hadn't been asked, if you understand what I'm saying.

Senator GALLAGHER: Then the final list that was agreed to was 39, for the allocation of nearly \$1 billion.

Mr Boyd: And that included 11 car parks.

Senator GALLAGHER: Eleven car parks, nine of which had been put forward by the department. So 30 came through this canvassing.

Mr Boyd: Yes. But none of those nine were car park projects.

Senator GALLAGHER: No.

CHAIR: Thank you, Senator Gallagher. That's your time.

Senator HENDERSON: I'd like to start with the Auditor-General and ask about paragraph 23 of your report, where you conclude that project selection was based on geographic and political profile: 'This is because Melbourne's most congested roads are located in the north-west, when most of the Commonwealth commuter car-park commitments were in the south-east.' Is that correct, Mr Hehir?

Ms Mellor: Sorry, Senator, Mr Hehir's not here. Can you point us to which paragraph you're reading?

Senator HENDERSON: I'm reading paragraph 23 of the ANAO report.

Ms Mellor: On page 10?

Senator HENDERSON: That's right.

Mr Boyd: That's correct. We've used state government data there.

Senator HENDERSON: Based on this, you believe that commuter car parks should have been committed to in the north-west and not in the south-east. Is that correct?

Mr Boyd: No, that's not what we're saying. As the Deputy Auditor-General was trying to explain earlier, we don't stand in for the department and attempt to redo their job for them; we audit the work that they've undertaken. We couldn't see here that the starting point for identifying the projects was where are areas of greatest need.

Senator HENDERSON: The clear implication from your conclusions is that you're suggesting that commuter car parks should have been committed to in the north-west and not the south-east.

Mr Boyd: No. We're saying that that isn't how the selection process was undertaken, by starting with where the greatest need is for the commuter car park stations by applying the investment principles. We're saying, from what the evidence shows us, that isn't it how it was gone about, how was it gone about instead? The question raised firstly for the Infrastructure Australia work was whether the need was greatest in Melbourne versus Sydney. Senator Rennick asked some questions relevant to that earlier as well. Again, we're not saying it should have been here rather than there. We're saying that it doesn't line up with the evidence that was available and then trying to say to the department, 'Well, what does it line up with?'

Senator HENDERSON: I'm not quite sure that you haven't given that impression in your report. I refer to appendix 2, the geographic distribution in Victoria of factors relevant to the policy objectives of the Commuter Car Park Fund. Isn't it a relevant factor as to the location of other car parks which are being funded in other parts of the state?

Mr Boyd: Indeed. We would have looked to have—

Senator HENDERSON: Okay. If that's the case—

Mr Boyd: Can I just finish. Senator?

Senator HENDERSON: Sure.

Mr Boyd: That's why we were looking to see how was the need but also what was already being done elsewhere taken into account in the project identification selection process, and there's no evidence that it was.

Senator HENDERSON: That's a real issue. I refer to appendix 2, the map that you've provided in your report, the geographic distribution in Victoria of factors relevant to the policy objectives of the Commuter Car Park Fund. The location of car parks being funded either by the Commonwealth or jointly by the Victorian government and the Commonwealth or by the Victorian government is surely relevant, is it?

Mr Boyd: We agree. That sort of information would be relevant. We were looking to see how such relevant information was taken into account in identifying the candidates for funding. We're saying that the evidence shows that it wasn't.

Senator HENDERSON: So, if it's relevant to other car parks in other parts of the state which are being funded or constructed under other funding programs, why weren't they included in your map in appendix 2? There are a whole lot of commuter car parks not included in your report, which is surely relevant to the policy objectives of the Commuter Car Park Fund. I'm going to read you a list. I represent, as a patron senator, the Geelong region. It's extraordinary to me that the Auditor-General did not include a whole lot of car parks in the Geelong region that are being funded under other funding programs. Why did you give a selective list on your map?

Mr Boyd: As the Deputy Auditor-General was explaining earlier, we audit what was done by the Commonwealth department—

Senator HENDERSON: No. You've provided a map of the geographic distribution of all the car parks. I'm asking the question: why have you been selective in that map? You have not included all commuter car parks that are being funded. In fact, I have a list of 39 commuter car parks in the north-west, in regional Victoria and in other parts of the state, which are being funded under other programs. Surely the Commonwealth's not going to fund the same car park twice. Let me read this out for Hansard: Huntly, Goornong, Raywood, Eaglehawk, Kyneton, Gisborne, Riddells Creek, Sunbury, Beaufort, Ballan, Bacchus Marsh, Melton, Cobblebank, Rockbank, Caroline Springs, Wyndham Vale, Tarneit, Deer Park, Werribee, Aircraft, South Geelong, Marshall, Waurm Ponds, Watergardens, Donnybrook, Merle Stone, Epping, Watsonia, Montmorency, Wattle Glen, Ringwood East, Mooroolbark, Jordanville, Drouin, Bunyip, Officer, Cardinia Road, Lynbrook and Cranbourne. There is a list of all of these car parks which are being funded under other programs. Why weren't they included in your map?

Mr Boyd: Again, my understanding is that that's under state government funded programs, and the decision-making process for this Australian government program did not take into account what the state government was already doing. As I was saying earlier in evidence, there was—

Senator HENDERSON: Sorry, what's the—

Mr Boyd: Can I just finish please, Senator? As we said earlier, there was engagement with the New South Wales state government as to what they were already doing and what they would like to see the Australian government do. We didn't see a similar sort of engagement with any of the other state governments. The problem here is that the information you're presenting to me isn't something which was included in the records as to how the Australian government actually conducted this program at that time, saying that the reason they went for the projects in these electorates rather than elsewhere in Melbourne or in any other state or territory was that the state government itself was already doing enough in those locations. That's not something which was evident to us in this program, and it's not something which was put back to us when we gave a copy of our proposed report both to the department and to the relevant ministers. Minister Fletcher in his response points to the broader—

Senator HENDERSON: I'm sorry; I'm suggesting to you that there are a whole lot of car parks which have been funded, which is on the public record, pursuant to other funding programs, including the Waurm Ponds to South Geelong rail upgrade, where commuter car parks are being funded. There are many car parks in Labor seats which are already being funded under other funding programs. You've presented, in your report, a table called 'Geographic distribution in Victoria of factors relevant to the policy objectives of the commuter car park fund'. Do you agree that one of the policy objectives is that you don't fund the same car park twice?

Mr Boyd: I don't think that was one of the expressed policy objectives for this program. As the Deputy Auditor-General was saying earlier, we don't stand in the shoes of the department. We don't say, 'These are the policy objectives you should have had'; we look at the objectives that they did have and audit against those.

Senator HENDERSON: Well, I would say that that's a nonsensical response. If the Auditor-General's office is not able to consider all of the funding programs which are on the public record, which of course the Commonwealth and the Victorian government are well aware of, it seems extraordinary to me that you have represented this table in a way which has selectively excluded many dozens of other commuter car parks which are being funded. I think that's a big, big hole in your report.

You've also criticised the government for not consulting delivery partners on potential projects. Are you suggesting the Commonwealth should not be making funding decisions or infrastructure funding commitments unless there is agreement from the Victorian government?

Mr Boyd: What we're pointing to is that the way the infrastructure investment program works—and it's through a national partnership agreement—is that for projects to get delivered you need someone other than the Commonwealth to agree to deliver them.

Senator HENDERSON: No, no, sorry; that wasn't my question. If I could respectfully ask you to—

Mr Boyd: I'm answering your question, Senator.

Senator HENDERSON: Well, could you answer my questions directly please.

Mr Boyd: What this program shows, and it's also what the state government said to us when we asked them, is that the lack of engagement, in terms of the identification process as to which projects would go forward, is then seen in the problems you're having in actually getting timely delivery of the program. As I was saying earlier, you've had two projects already that have been cancelled; there are 11 where we're yet to see—

Senator HENDERSON: Sorry; you're not answering.

Mr Boyd: a project delivery proposal from the delivery partner.

Senator HENDERSON: Chair, I wonder if I could just intervene for a moment. Mr Boyd, could I just ask you to answer my question: are you suggesting the Commonwealth should not be making infrastructure funding decisions or commitments unless there is agreement from the Victorian government?

Mr Boyd: What I'm explaining to you, Senator, is that the way this program works is through a national partnership agreement. A national partnership agreement, by definition, involves both the state and the Australian government agreeing to something being included on the schedules for delivery. If the Commonwealth unilaterally decides this is what's going to happen, you're going to have a challenge getting the state government to agree to it being included on the schedules but also getting the state government to agree that it will actually be a delivery partner and bring forward a project proposal.

Senator HENDERSON: That's an opinion that you've just made—

Mr Boyd: No, Senator, it's a statement of fact.

Senator GALLAGHER: That's how it's delivered.

Senator HENDERSON: That's an opinion that doesn't stack up with the facts.

Senator GALLAGHER: It's not an opinion.

Senator HENDERSON: Let me just give you an example. There are a range of very major infrastructure projects in Victoria: the Geelong fast rail, the Melbourne airport rail link, the Waurin Ponds to South Geelong rail upgrade, the new intermodal terminal. They are all Commonwealth commitments for the construction of very major infrastructure projects in Victoria that were not initially agreed by the Victorian government at all. In fact, in the case of these projects—certainly the Geelong fast rail, the Melbourne airport rail link and the Waurin Ponds to South Geelong rail upgrade—and many other projects very often the Commonwealth has made an infrastructure funding decision and then has had to drag the state government to the table. So I put to you—

Senator GALLAGHER: Is there a question?

Senator HENDERSON: I put to you that very often in Victoria the Commonwealth has been required to make funding commitments on infrastructure in order to ensure that projects are delivered. I refer to the Geelong fast rail, the Melbourne Airport rail link and many parts of the Regional Rail Revival project as well.

Mr Boyd: We haven't audited those projects, but we audited the East West Link project a few years ago. That was a case where the Commonwealth again made a decision to unilaterally fund the project. In that case the Commonwealth has paid the money to the Victorian government already and that project is not proceeding because the Victorian government didn't wish it to proceed. I'm not familiar with the details of the ones you mentioned. The one I am familiar with is that one.

Senator HENDERSON: What I'm putting to you is the misleading impression you're creating that infrastructure projects only happen when there is partnership agreement. Through the recalcitrance of the Victorian government there have been many examples where the Commonwealth has led the charge in funding infrastructure in this state—and I'm a senator for Victoria. So often, as I have cited, these major infrastructure projects have only occurred because of the leadership of the Commonwealth. Isn't that correct?

Mr Boyd: I can't answer that question. What I can talk to you about is the Urban Congestion Fund and the commuter car parks component. As I said, in this program there are 11 projects where we can't yet get a delivery partner to come forward with a project proposal, 23 where to date what has come forward has been for some scoping work, not delivery work, and two that have been cancelled already, so we're in a situation where this approach to selecting candidates for funding hasn't led to a program being delivered in a timely and effective manner.

Senator HENDERSON: Did the ANAO analyse the commuter car parks program in the context of the government's entire infrastructure investment program? Was that the case?

Mr Boyd: No, we didn't do that.

Senator HENDERSON: Why didn't you do that?

Senator GALLAGHER: Because it was an audit of the Commuter Car Park Fund.

Senator HENDERSON: Sorry, I'm not asking other senators; I'm asking the ANAO.

Senator GALLAGHER: That's the answer.

CHAIR: Senator Gallagher, I appreciate your assistance with the inquiry. If you could leave the answers to the ANAO, that would be terrific. Thank you.

Ms Mellor: The audit objective was to assess the effectiveness of the administration of the commuter car park projects within the UCF. It was limited to that scope.

Senator HENDERSON: You've cast some real aspersions on the Commonwealth in relation to the funding of this program. In failing to consider other infrastructure funding programs it is the case then that you've not considered the many Labor electorates in Victoria that are benefiting from infrastructure decisions made by the Commonwealth, and in particular I refer to the Melbourne Airport rail link, the new intermodal terminal at Truganina and Geelong fast rail.

Ms Mellor: All of those examples are out of scope of this audit. This audit was specifically about the administration of the commuter car park component of the UCF.

Senator RENNICK: Cherry picking.

Senator HENDERSON: Well that's regrettable because—

Ms Mellor: Sorry, Senator Rennick, it's not cherry picking; it's the scope of the audit.

Senator GALLAGHER: Exactly.

Senator RENNICK: It's cherry picking.

Senator GALLAGHER: You're both struggling to make this look like it's a legitimate program, right? The two of you are running interference.

Senator RENNICK: We don't apologise for making it easier for working Australians to get to work.

Senator GALLAGHER: We're going to be here all day.

CHAIR: Senator Gallagher, thank you for your assistance.

Senator GALLAGHER: We will be here all day, Senator McDonald, with the carry-on that's going on. They're reflecting on the witness saying that the audit is misleading.

CHAIR: Thank you for your assistance—

Senator RENNICK: I said it was cherry picking; I didn't say it was misleading.

Senator GALLAGHER: Senator Henderson said that they had given misleading views.

Senator HENDERSON: I refer again to the policy objectives of the Commuter Car Park Fund. It is the case that it would be reckless of the government to fund the same commuter car park twice, isn't it? So if you were looking at the policy objectives of the Commuter Car Park Fund it is the case that it's important to fund car parks which have haven't otherwise been funded under other programs. That's why I go back to a massive oversight by the Auditor-General in excluding all of these other car parks being funded in other parts of the state, including in many Labor seats. That is a factor relevant to the policy objective of the Commuter Car Park Fund, isn't it?

CHAIR: Senator Henderson, you're going to be out of time. I'm sorry to cut you off there.

Senator HENDERSON: Could I just get an answer to that last question, please, Chair?

Ms Mellor: No. The view of the ANAO is that we applied the audit objective and the criteria to the program that we were auditing. We don't look at all programs at once. We look at the program that we're auditing and the administration of that.

Mr Boyd: If you look at the actual program we're auditing, one of the investment principles for the UCF, if you go to paragraph 3.32 of the audit report, is that the projects be co-funded. It's very hard to have a program where there's co-funding when the person you're looking to contribute the co-funding hasn't been engaged in the selection of projects.

Senator HENDERSON: That evidence doesn't stack up at all.

Senator RENNICK: We are engaging.

Senator GALLAGHER: What are you saying, Senator Henderson?

Senator HENDERSON: That doesn't stack up based on the evidence of the infrastructure—

Senator GALLAGHER: Absolute rubbish. You don't know what you're talking about, Senator Henderson. She hasn't even read the audit.

Senator RENNICK: Senator Gallagher, the department says it has engaged.

CHAIR: Could everybody stop speaking.

Senator GALLAGHER: She's been sent here to run interference.

CHAIR: I'm trying to chair this in an orderly manner so that everybody gets a go and gets time. Please leave it there. Senator McCarthy, you will take us through to the break.

Senator McCARTHY: I want to follow up on a question from Senator Gallagher in relation to the press release. You did respond, and said that there was another UCF project that was announced by media release. Are you able to provide any further information on that?

Ms Bremner: There was a reference, when we asked about the Mitcham announcement, to a precedent, so then we asked about what the precedent was. That was on 29 January 2019. There was one UCF project selected via announcement by the Prime Minister. That was Commercial Road and Doggett Street intersection upgrade Newstead.

Senator GALLAGHER: How much was that worth?

Ms Bremner: I will have to look that up.

Senator McCARTHY: So you're having a look now?

Ms Bremner: Yes.

Senator McCARTHY: Provide that info when you have it. In the meantime, I will go to another question. Listening to a lot of the evidence you've provided this morning, how would you characterise the level of cooperation that you've received from the department during the course of your audit?

Mr Boyd: In a word, very good. We've been auditing the infrastructure department for many years, including in the national land transport space. They've got a very good liaison point with us in general for all matters of contact in relation to the audit. The area concerned here, the infrastructure investment division, we meet very regularly with at a senior level. The person who heads up the division was very forthcoming and cooperative throughout the audit. We accessed the records that we needed to when we needed them. The record keeping, as we flagged in the audit report, wasn't great, but I must give credit to the department. They took seriously the concerns we were flagging about the record keeping, which weren't just about the fact it was delaying and making our work difficult but also we thought it raised program delivery risks for the department, and they've taken or are taking a range of steps to improve those things.

Senator McCARTHY: Would you say you've received all the information that you did request from the department?

Mr Boyd: Everything we requested we've received but not always as quickly as we wanted to. In some cases we might have initially requested something which, upon reflection, we didn't need, but we certainly had sufficient and appropriate audit evidence to complete our work. The Auditor-General was personally satisfied, as was the deputy.

Senator McCARTHY: In your recommendations you certainly identified some serious administrative concerns with the department. Do you think they've taken those recommendations seriously?

Mr Boyd: My long experience in the Audit Office is that we do follow up audits of implementation of recommendations. Until you see a recommendation implemented, you always have to be wary that it might be agreed to but may not be implemented. We're not really in a position to say that they have. Certainly they agreed to each of them. You would hope then to see that they would be implemented.

Senator McCARTHY: What's your view about the extent to which the department's response to recommendations will prevent a similar approach being taken in the future?

Mr Boyd: I don't quite understand the question.

Senator McCARTHY: You've made some serious recommendations there. What I'm trying to understand, because we will have the department come before us, is how seriously they're taking the recommendations. You've mentioned that you do lots of audits and you do lots of follow-ups, but this is an incredibly serious report you've put out publicly. We need to have confidence that the department, within its own processes, is taking that seriously as well as the ministers responsible.

Mr Boyd: When we're following up recommendations, we look at whether there's an implementation time frame. You would look to see that there has been reporting to the audit committee on what they propose to do to actually give effect to the recommendation they've agreed to. Certainly with some of the recommendations you would think that they are things that you would already see changed, with practices in place. Some of the things around the assessment work and the advice that comes forward to decision-makers—we've been flagging these things with the department to say the report tables in late June, but the department had already had our first draft report for some time before that.

You would think by now that you would see some changed practices in their ministerial briefing such that things such as the benchmarking work and BCRs are actually being explicitly addressed. No longer would you see projects being put forward for approval without an adequate explanation as to why it should be approved if

the BCR is very low or the costs are well above benchmark. You would hope to see that those things are being addressed. By now I would think it would be reasonable to expect that the assessment procedures would have been improved and enhanced such that they're explicitly addressing eligibility. There are a range of things you would expect could and should have been changed already. Those other things will take longer, like some of the record keeping things, where there are systems and procedures. The department certainly started work fairly promptly last December/January when we first started flagging problems with them to start things in motion. Some system changes can take time and so forth. Certainly for some of the recommendations I would think that the department should be able to advise you now what they've already done, not just what they're proposing to do.

Senator McCARTHY: Do you have confidence your report and the government's response to it will improve the way this government handles public money, Mr Boyd?

Mr Boyd: I think our recommendations are designed such that if they're implemented that's the sort of thing the Auditor-General would expect.

Ms Mellor: Senator McCarthy, the important thing for us is that the department's not accountable to us; it's accountable to parliament. We put the recommendations in place to improve the administration. While we might go back and check the implementation of them, that accountability remains with the parliament. Our confidence rating is almost irrelevant.

Senator McCARTHY: Thank you for that. I travel hundreds and thousands of kilometres up there in the north. When we see a significant amount of funds channelled in our southern states to urban car parks and other infrastructure, when we are so greatly lacking in the north with that kind of infrastructure, we need to have confidence, the parliament certainly needs to have confidence and Australians need to have confidence that public money is being spent appropriately. Yes, it is confidence that we want from the parliament, but I would be very keen to know that the parliament has confidence in your report as well.

Ms Mellor: I think the key thing for us is to make recommendations that improve the administration—and, in this case, administration that was very poor—so that that confidence can rise at those levels of the community that you're talking about.

Mr Boyd: We have an answer for you, Senator, on the earlier question.

Ms Bremner: The government initially committed \$1 million towards the Newstead project, and then that was subsequently increased to \$1.74 million.

Senator GALLAGHER: And only by a media release, no other documents?

Ms Bremner: That's correct.

Senator McCARTHY: Thank you very much. Senator Gallagher, I'm not sure whether you want to pursue that, but I've asked the question, so I need to ask.

CHAIR: Thank you very much to everybody. That leads us to the break—

Senator GALLAGHER: Chair, just before we break, could I raise one matter with you. I would like to note the attack that's occurred on the ANAO by government senators today.

Senator RENNICK: Oh!

Senator GALLAGHER: No, listen to me: there was commentary made that evidence was misleading, that the audit was deficient and that answers were nonsensical. I would just say that the Auditor-General is an independent officer of the parliament and deserves better treatment when they appear at a hearing like this. I'll leave it to you, Chair, as to whether you think any further action needs to be taken about that.

CHAIR: Senator Gallagher, I note your comments. I didn't think that the questions were out of line, in that they were senators trying to—

Senator GALLAGHER: It wasn't questions; it was commentary.

CHAIR: Thank you for your assistance, Senator Gallagher; I appreciate you assisting me in these duties. I think that senators, I have observed during my time in the Senate, are often frustrated by getting answers from departments. Senator Sterle raises this with me frequently. And I think it is okay for senators to try and get the answers to the questions they're asking. I provide a great deal of latitude to senators in trying to hold departments and independent authorities to account, as is our responsibility in the Senate. But I thank you for raising this with me. I will consider it further. We will have a break now, to allow Hansard to break, and will return with the department and Minister Hume. Thank you.

Department of Infrastructure, Transport, Regional Development and Communications

[11:33]

CHAIR: I now welcome Senator Jane Hume, Minister for Superannuation, Financial Services and the Digital Economy and Minister for Women's Economic Security, and representatives from the Department of Infrastructure, Transport, Regional Development and Communications. Minister, do you or representatives of the department wish to make an opening statement?

Senator Hume: I haven't got an opening statement. Maybe the department does.

Mr Atkinson: Mr Hallinan has a short opening statement for the committee.

CHAIR: Thank you.

Mr Hallinan: Thank you for the opportunity to provide an opening statement. The department welcomes the ANAO audit report on the Administration of commuter car park projects within the Urban Congestion Fund. The department has agreed with the recommendations of the Auditor-General but disagrees with some findings. The government's Urban Congestion Fund and, within it, the commuter car park fund are programs established under the federal financial relations framework through the national partnership agreement on infrastructure. The programs are not grant programs and are not subject to the provisions of the Commonwealth Grants Rules and Guidelines. Decisions on projects to be included in the NPA are decisions of government, subject to agreement by implementing partners, relevant states and territories and provisions in the terms of the NPA. These arrangements are longstanding, having their genesis in the establishment of NPA models with consolidated appropriations management through respective treasuries over 10 years ago. The department's advice on program design and project identification on these programs is subject to cabinet confidentiality, as deliberative advice informing cabinet deliberative processes. The audit report identifies excerpts of departmental advice to the government, to which the department will refer.

While the department agrees with the recommendations in the report, the report includes findings with which we disagree. These findings relate to: program design; project identification and selection; eligibility of projects; and delivery. As is usual practice in cabinet processes, the department provided policy advice on both the program design and project selection. The audit report provides excerpts of that advice and further describes parts of the advice from the department. In the context of the NPA, once the government's decisions are taken the department's role has been to work with implementation partners, namely states and territories and local governments, to identify feasible project locations, scope development options and consider whether the project is within the scope of the agreed policy and/or to provide further advice into cabinet decision-making processes. We've been undertaking this role and we will continue to do so.

What makes this different to implementation of most projects under the NPA for the department is that the projects were identified by the Commonwealth, not by the state or territory partner. Final assessment of value for money is relevantly undertaken once the department has reasonably accurate information on the scope, costs and benefits of a project. As the report notes, the department has both estimates of benchmark comparisons for car park costs and a tool to assess benefit-cost ratios of the projects. These are two useful but not exhaustive sources of information on which to base a value-for-money assessment. Importantly, benchmark costs are limited in their use for assessing value for money, as no consideration is given to the benefits attached to the potential expenditure.

The department has worked closely with ministers and provided advice into cabinet deliberations relating to the commuter car park fund in various forms over the past six to 12 months. The government has taken further decisions through cabinet processes on a range of projects.

In relation to eligibility, the report has identified instances where the advice of officials to the relevant minister indicated that the project was eligible under a part of the National Land Transport Act that relates to roads instead of the part that relates to intermodal facilities, under which they are eligible. This is an error in administrative practice that the department has taken steps to remedy.

Separately, the audit report identifies 10 projects that are not attached to train stations. For a commuter car park to be eligible, it must be reasonably within the vicinity of the station. While we are still finalising scoping for some projects, of those projects for which we have confidence on potential locations: on current estimates seven are at the train station, 20 are under 200 metres to walk to, six are distances of between 200 and 300 metres and five are between 300 and 650 metres.

In a separate instance, the report finds a project to be ineligible under the provisions of the National Land Transport Act. However, the department has progressed work to scope the project, and, once scoped, will provide further guidance to ministers on options for delivery. Payments for the project to date have been made to Victoria pursuant to the federal financial relations legislative regime and associated agreements between ministers, and

were authorised by that legislation. We're examining whether any adjustments to the arrangements may be appropriate and we will provide advice to ministers on any adjustments that may be required.

I note that Senators Sterle and Rice requested that the following documents be tabled by the department at this hearing: spreadsheets that formed part of the process of selecting projects under the Urban Congestion Fund; legal advice obtained by the department in relation to commuter car parks and the National Land Transport Act; a benefit-cost calculation tool developed by the department; and information on commuter car park projects contained within the infrastructure management system. We have provided information to assist with the third and fourth requests. As a calculation model we do not think that the tool for benefit-cost analysis is conducive to tabling, but we have tabled the guidelines that accompany the tool. The department has tabled project information for the commuter car park projects, as has become consistent practice at each estimates hearing of this committee. This information reflects key data held about major projects within the Infrastructure Investment Program, including budget forecasts, as indications of construction schedule and likely payments against milestones expected to be achieved by delivery partners. We cannot table either the legal advice or the policy advice referred to in the remaining elements.

CHAIR: Thank you very much for that.

Senator GALLAGHER: Thank you for coming today. So, Mr Hallinan, your evidence is that you are tabling two documents, which has just been done, but you are not tabling the spreadsheets?

Mr Hallinan: That's correct.

Senator GALLAGHER: On what grounds?

Mr Hallinan: The spreadsheets are deliberative advice from the department into government decision-making processes.

Senator GALLAGHER: Have you discussed this with the minister?

Mr Hallinan: We've started an engagement with the minister and his office.

Senator GALLAGHER: So you're referring it off for the minister to make a decision? As you'd be aware, the Senate has significant powers to request that documents be provided. Just saying they're cabinet-in-confidence is not an agreed reason to not provide documents.

Mr Hallinan: We certainly can do so, if you would like.

Senator GALLAGHER: It's not whether I would like you to do so; that is the procedure. You are to refer it formally to the minister, and the minister must make a claim of public interest immunity if you're not going to provide those documents today.

Mr Atkinson: We'll refer it to the minister for a claim of PII.

Senator GALLAGHER: But you haven't done so. So you've had this letter since 13 July, and you've just decided to come and say that you don't want to table it because it's cabinet-in-confidence?

Mr Hallinan: We've engaged with the minister's office on the matter over the last week.

Senator GALLAGHER: You have? And what did they say?

Mr Hallinan: We advised that we would provide this advice at the table, and, if required, we would provide a public interest immunity claim through the minister and refer the matter to the minister.

Senator GALLAGHER: To which they agreed, no doubt. Did they? They agreed that that was the appropriate handling for it?

Mr Hallinan: Yes.

Senator GALLAGHER: So the tracking document that the Audit Office has alerted us to, with the name 'Top 20 Marginals'—can you provide that document, please?

Mr Hallinan: It's not a document that the department holds.

Senator GALLAGHER: You must hold it, because that's how the Audit Office became aware of it. They made clear in their evidence that they only have access to departmental documents.

Mr Atkinson: That's not quite what they said. They said it was on a departmental system. Office staff have emails that are supported by departments.

Senator GALLAGHER: So you don't have this document. It's on your system but you don't have access to it?

Mr Atkinson: It's not formally on our system.

Senator GALLAGHER: How did the Audit Office get it, then?

Mr Atkinson: The Audit Office goes through the inboxes of ministerial staff.

Senator GALLAGHER: But that's held on your system, though, isn't it? Their evidence was that they only had access to information held by the department on its system.

Mr Atkinson: They said 'access to information on the department's system'. We do not access the minister's staff's systems.

Senator GALLAGHER: So the department has never seen a tracking document that has a 'Top 20 Marginals' title, or a related document? Anything like that? Nobody has ever seen it?

Mr Hallinan: Not that I'm aware of.

Senator GALLAGHER: We'll have to go back and have a look at what the Audit Office said. I'm absolutely convinced they said they only had access to what the department holds on its system.

Mr Atkinson: I think they used their words very carefully.

Senator GALLAGHER: So what are you saying to me—that they found it on emails linked to your network but that you don't have access to? Is that what you're saying?

Mr Atkinson: I would be speculating, but I think they possibly found it in the inboxes of ministerial staff.

Senator GALLAGHER: What about the Urban Congestion Fund map of Australia with state-by-state breakdowns and allocations of funding?

Mr Hallinan: We're also not aware of that document.

Senator GALLAGHER: So you've never seen that?

Mr Hallinan: It's not a document that we provided to the Audit Office. It may be a document that was in the emails, as the secretary has indicated, of the minister's advisers.

Senator GALLAGHER: I think they were unsure about who was the author of that document. You're saying that it was not the department?

Mr Hallinan: I'll confer with colleagues, but I don't think any of us are familiar with a map of the nature that was described this morning.

Mr Smith: Our records indicate we provided a raft of spreadsheets that were referred to, but I have not seen a development of a map. We obviously provide maps once budget decisions have been made, which is the normal course of business.

Senator GALLAGHER: Have you provided a UCF map of Australia in any form?

Mr Smith: We certainly would have provided maps post the decisions, and from memory we published a glossy which had a number of projects. But I think what the Audit Office is referring to is a map pre-decision-making.

Senator GALLAGHER: That's what I understood their evidence to be.

Mr Smith: The documents I've seen relate to various spreadsheets, but not a map.

Senator GALLAGHER: So it was news to you this morning that these documents existed, was it?

Mr Smith: I certainly have not seen that map. I'll take on notice to double-check our records to see if anyone else has, but I have not seen that map.

Senator GALLAGHER: When the Urban Congestion Fund was designed with, I think, the original \$1 billion, before decisions were made, did the department not create a map with a state-by-state breakdown of portions of the Urban Congestion Fund that should be allocated to those states? I'm trying to make it really clear.

Mr Smith: As I said, the information that I have seen related to spreadsheets. So I will need to take on notice if there are any particular maps around that. I'm not aware that we've produced maps, certainly not in relation to what I think that you said—'top 20 Targets'?

Senator GALLAGHER: It was called the 'top 20 marginals', to help direct some of the conversation.

Mr Atkinson: The department wouldn't deal with a document with that sort of a title.

Senator GALLAGHER: What do you mean 'wouldn't deal with it'? You'd send it back if it came your way?

Mr Atkinson: We don't have it.

Senator GALLAGHER: I'm not saying you were the author of it. I'm just trying to understand what your knowledge of it is.

Mr Atkinson: To the best of our knowledge, no-one in the department at that time or now has had that document.

Senator GALLAGHER: Your evidence was that you only learnt of the top 20 marginals tracking document this morning from the Auditor-General's evidence.

Mr Atkinson: Certainly, that's my situation.

Senator GALLAGHER: So you have no knowledge of that, and you have no knowledge of the map of Australia, which had been talked about this morning—correct?

Mr Hallinan: That's correct.

Senator GALLAGHER: Senator Hume, are you aware of this tracking document, top 20 marginals, or the map of Australia that had allocated funding by state before projects were identified?

Senator Hume: The first I heard of it was in the ANAO report.

Senator GALLAGHER: What—this morning?

Senator Hume: Yes.

Senator GALLAGHER: So you're going to put through a claim on public interest immunity or refer it to the minister. Mr Smith, you said you had seen spreadsheets through discussion around the Commuter Car Park Fund and the Urban Congestion Fund?

Mr Smith: In relation to the Urban Congestion Fund, yes.

Senator GALLAGHER: Who's the author of the spreadsheets?

Mr Smith: As it's pointed out in the Audit Office, it's a combination. We obviously need to be careful; these were prepared in the context of cabinet deliberations. The Audit Office points to a number of sources for those documents, and I think they're pointed out throughout the audit in chapters 2, 3 and 4.

Senator GALLAGHER: I presume there were some spreadsheets you were responsible for, or one. I get that it was to and fro.

Mr Smith: As the Audit Office have pointed out in their audit report, there was a spreadsheet initiated by the department, which had a number of projects on it.

Mr Hallinan: To be quite clear, some of the evidence that we heard this morning is information that was new to us. There may very well be other spreadsheets to which the Audit Office was referring that we don't know or haven't seen. I just want to make that clear.

Senator GALLAGHER: Sure, which is why it would be useful if you were able to table the ones that you are responsible for so we could understand exactly what the department was saying to the government, acknowledging that it was an iterative process. But, in terms of the one that the department was responsible for, what information was on that spreadsheet? What were your columns?

Mr Smith: It would have had general project information and some views around that.

Mr Atkinson: Senator, are you referring to the UCF or the car parks?

Senator GALLAGHER: The UCF, because there are a number of car parks—13 car parks—that were agreed to as part of the Urban Congestion Fund before the establishment of the Commuter Car Park Fund. So I'm interested to know: when you're providing that information to government, what is it? Presumably you'd have a state column, a project description—

Mr Smith: It would have a project name, a bit of a project description, the relevant state and approximate funding splits if we're that far, depending on the stage of where things are at.

Senator GALLAGHER: Is that it? Can you think of any other information that might be—

Mr Smith: It might have things like whether it was referenced on the Infrastructure Australia audit priority list.

Senator GALLAGHER: I think it's mentioned in the audit that there were three categories of whether it was a priority or not. The ones you get back have other columns added in, presumably—do they? Did you see any political document that had, for example, a seat column?

Mr Smith: The department does not generally get involved in any political processes.

Senator GALLAGHER: I know. I'm not asking you if you got involved in it; I'm asking whether you saw a spreadsheet with seats or electorates?

Mr Smith: I think that the Audit Office pointed out there was a spreadsheet that actually had a factual reference to the electorates and which projects were there.

Senator GALLAGHER: Did you work off that in terms of going back and fro? Was that part of the work you did?

Mr Smith: No, I think that the Audit Office have indicated that was only on the one spreadsheet, and that was not on subsequent spreadsheets.

Senator GALLAGHER: Did you raise with the minister's office that you didn't want that on?

Mr Smith: I wasn't around at the time. It was on one spreadsheet and not the next.

Mr Hallinan: Our usual practice when something like an electorate identifier goes onto a document that's brought to the department would be to remove electorate identifiers in iterations of documents that are shared between departments and ministers offices if they are provided to us.

Senator GALLAGHER: Did you do that in this instance?

Mr Hallinan: I think that the Audit Office found that the electorate column was removed.

Senator GALLAGHER: I'm asking you. What did the department do when you had a spreadsheet that had electorates on it?

Mr Hallinan: This was well before my time.

Senator GALLAGHER: Mr Atkinson, do you know? Were you there?

Mr Atkinson: It was under the former secretary, but we can take on notice precisely what happened and what the course of events was that led to the electorate information getting removed.

Mr Smith: Senator, back to my earlier answer, 2.27 and 2.28 in the ANAO report outline the general nature of those spreadsheets.

Senator GALLAGHER: I'll come back to that, because I've only got a short amount of time before I lose the call. Who made the decision not to have an open, competitive or merit based selection?

Mr Hallinan: The policy decisions were around the design of the program, and then the projects identified within it were decisions of government.

Senator GALLAGHER: I know. I'm asking you around the design. Was it a department decision not to have an open, competitive or merit based process?

Mr Hallinan: It was a decision of the government. The design of the program and the policy were determined by government through cabinet processes.

Senator GALLAGHER: So it was a ministerial or cabinet decision to design the fund.

Mr Smith: Paragraph 2.7 of the audit report outlines the governance framework and the decisions made.

Senator GALLAGHER: But I asked the Auditor, and they said it was unclear whose advice it was that led to it not being merit based. Who made the decision? It was not clear to them. We understand your position as a department that that was fine, but I want to know who made the decision.

Mr Atkinson: The decision was a decision of government.

Senator GALLAGHER: Did you brief the minister, and did the minister sign off on that? Or were you told by the minister, "This is the way I want the scheme arranged"?

Mr Hallinan: We'll have to take on notice the specifics of that. I think, if you read through paragraph 2.7, it provides excerpts of advice from the department into that process. We'll just draw your attention—

Senator GALLAGHER: But it doesn't tell me why you don't support it.

Mr Hallinan: I would draw your attention to the second dash point under the first dot point of page 23:

- in late June 2018, a non-competitive submission process involving the release of an urban congestion prospectus calling for innovative solutions to congestion problems

This was identified by the Audit Office as advice to the department into the decision-making process. I would refer you to a prospectus. To give you an idea of what a prospectus approach is, there was a contemporaneous model called the Faster Rail Prospectus, which was a call for submissions around a series of identified priorities of government.

Senator GALLAGHER: So, from your point of view, you knew a lot about what potentially would fit under this fund. Is that the reason why you're saying that the department didn't see the need for an open or merit based competitive process?

Mr Atkinson: It would be unusual, under these national partnership arrangements, to have an open, competitive process. That's more what we do with grant programs, and these aren't grant programs.

Senator GALLAGHER: Yes, I understand that from your opening statement. Could you table that for the committee, if you are able?

Mr Hallinan: I think that's been tabled, yes.

Senator GALLAGHER: Thank you. It's also highly unusual to have \$4.6 billion basically allocated by ministerial office and canvassed only with coalition MPs. Having been a part of a number of national partnerships, I'm not aware of any that take this form, so we are dealing with highly unusual situations. You are saying that the department didn't see the need for a merit based process but it was ultimately a decision of the government. Is that the minister specifically or the cabinet?

Mr Hallinan: I'm saying that the advice from the Audit Office included excerpts of the department's advice in the cabinet processes. That excerpt that I identified suggested the department was proposing a prospectus with a call for submissions, which I think would probably end up having some level of merit-criteria assessment and other matters.

Senator GALLAGHER: Okay. You had this prospectus, but then, ultimately when we look at it, not many of your ideas were taken up for allocation, were they?

Mr Hallinan: I think—

Senator GALLAGHER: Through the Urban Congestion Fund, only nine of the ones you thought were a good idea got up.

Mr Hallinan: That's certainly what's been identified.

Senator GALLAGHER: So part of the reason you justified for not having a merit based or competitive process is because you'd already got this prospectus. You'd been, presumably, talking to states and territories?

Mr Hallinan: No. I think we had proposed the development of a prospectus; that's what that paragraph identifies.

Senator GALLAGHER: Did you do that?

Mr Hallinan: No. The government took a choice on how that program would run, and it took a range of decisions on the program.

Senator GALLAGHER: But, again, if I go back to trying to understand your position, Mr Atkinson, it is that usually you don't have a merit based process for national partnership agreements. In my experience, they're usually determined in consultation with the states and territories and the councils. That didn't happen with this. That's what the audit found. Are you aware of other national partnerships where it seems that the majority of the decision-making is made in the minister's office amongst his colleagues and with the Prime Minister's approval?

Mr Atkinson: It's a bit speculative, Senator.

Senator GALLAGHER: Well, no—

Senator Hume: Chair, if I may—

CHAIR: Yes, please.

Senator GALLAGHER: You could answer this, Minister.

Senator Hume: I think this would probably be a good time for me to table, if I may, Labor's record on commuter car parks and their park-and-ride commitments. I have a document here that I can provide electronically to other senators, and I can also provide it in hard-copy form—

Senator GALLAGHER: Have you read it?

Senator Hume: I'm sorry, Senator Gallagher; I think I have the call at the moment—

Senator GALLAGHER: Have you read about how it takes applications from states and territories?

Senator Hume: I'm pretty sure I've got the call—

Senator GALLAGHER: Have you read it? Because it actually makes my point.

CHAIR: Excuse me—

Senator Hume: I'm pretty sure I've got the call.

Senator GALLAGHER: Is that all you've got?

Senator Hume: Can I just say that if that scheme—

CHAIR: Senator Gallagher, can I ask that we be respectful of other people while they're speaking? It's very trying for everybody to be remote.

Senator GALLAGHER: She's making a political point, Senator McDonald.

CHAIR: Senator Gallagher, you have all been making political points today. We all give each other the respect of listening and then having our own go. Please let the minister finish. Then we'll move on to the next senator to ask questions.

Senator Hume: Thank you, Senator McDonald. I'm sorry, Senator Gallagher; this program, too, is certainly not merit based. It's certainly not a competitive process. It's certainly not a grant program. It's \$300 million that was allocated to Labor electorates. It was announced at the New South Wales Labor conference on Sunday 1 July 2018. I have a series of social media posts there, where all of those announcements were made in Labor electorates. I'd like to table that document now.

CHAIR: Thank you, Minister. We will now move to Senator Antic.

Senator GALLAGHER: I'll come back to that!

Senator ANTIC: Thank you to the department for your evidence today. I'm interested in the issue of whether or not there are specific examples that can be given as to instances in the IIP, outside the Urban Congestion Fund, where the Commonwealth has successfully selected projects before consultation with a delivery partner? Are there specific examples that can be provided of those instances?

Mr Smith: I'll take that on notice to provide a long list, if we can. Off the top of my head, Melbourne Airport rail link was announced by the government ahead of consultation, and Geelong Fast Rail. The usual practice, if the Commonwealth does announce a project, is then to obviously write to the state and seek state agreement, as the delivery partner, through the national partnership arrangements.

Senator ANTIC: So you're going to take on notice a list—a lengthy list, you said?

Mr Smith: Yes, I'm just running off the top of my head two that I could think of. There might be others as well.

Senator ANTIC: Alright. Can you tell me a little bit about what the department has done with the delivery partners since those projects were announced? What sort of activity, what sort of work, has been done post announcement?

Mr Smith: There's been extensive work with all the states that have any UCF and car park programs. The first thing is, on the night of the various budgets, the Deputy Prime Minister would have written to his state counterparts attaching a schedule that would have those projects on there. You then seek agreement from those states to that schedule. In terms of delivery, you then work with the jurisdictions and the officials of the jurisdictions to get agreement for those projects. You then, depending on the stage of where those projects are up to, go through a feasibility studies process and get a project proposal report developed by the states. That informs us about costs and delivery time frames. Then we brief the minister necessary to get those decisions made. The states would then get into the delivery stage of that project, should the Commonwealth wish to deliver those projects. So there is lots of extensive work in the planning and development stage and then into delivery, should the government wish to deliver those projects after that work has been done.

Senator ANTIC: There is clearly an extensive process that takes place in relation to these projects, prior to and post when they're announced. There is a very clear system of interaction between the departments?

Mr Smith: Yes, I think that's fair to say. The Infrastructure Investment Program has been around for many years. There are well-established practices with the states. The key thing is to make sure everybody is on the same page and there's a process. All infrastructure projects generally go through a similar type of process, depending on where they're up to. If a feasibility study needs to get done, that is done. We work out who's going to do that. That is generally the delivery partner, being the states, territories or councils, and that work then progresses from there, depending on what the feasibility studies find. So it's probably fair to say it's well documented under the National Land Transport Act how things work under the notes of administration that are publicly available.

Senator ANTIC: That's the post-announcement phase. What sort of regular engagement does the department have with delivery partners? The suggestion in the report was that there wasn't much engagement. Can you take us through the truth of that?

Mr Smith: The usual process for the broader IIP is that we obviously normally seek submissions—or not necessarily submissions, ideas from a raft of parties. States generally provide their ideas, in the lead-up to budgets and MYEFOs, about projects they wish to deliver. The department does its own research about projects it may wish to deliver. Industry often write as well. I think they provide a number of submissions as well. That then gets

taken into the mix. Briefings are providing according to executive. The executive then make those decisions. But we also have regular engagement with the states through our normal practices, which are weekly, fortnightly, monthly meetings, depending on projects and processes. Along with those, you generally get a bit of a sense of where the priorities of states will be in terms of their next lot of thinking. We do that at a variety of levels, from officers right through to dep secs, and I know the secretary also has meetings with his colleagues from time to time as well. So it's sourced from a variety of mechanisms. I'm not sure, Senator, whether that answered your question sufficiently.

Senator ANTIC: It does. I want to ask one more question and then I want to direct a couple to the minister, if I can. Obviously, it's an involved process and it is a two-way street. Can you tell me a little bit about some of the challenges the department has in working with some of these delivery partners with respect to questions like the logistics, whether information is ever late, whether the information provided by delivery partners is ever of a poor quality—that sort of stuff. Can you take me through some of the challenges?

Mr Smith: We obviously try to work very collaboratively with our delivery partners, and I think it's fair to say that most work with that same spirit of cooperation. We're all interested in making sure the projects are delivered as quickly as they can be. It's probably fair to say that from time to time information needs to be supplemented with additional information or there might be some delays in receiving that information. That can be for a number of reasons. For instance, during COVID, obviously it is difficult for people to get access to sites, so sometimes it's difficult to undertake the geotech work necessary for some of the projects. But, generally by and large, we have fairly strong relationships. I'm sure they would say the same of us, and we try to work as collaboratively as we can with the jurisdictions.

Senator ANTIC: Thank you. Can I direct a couple of questions to the minister now. I'm interested to know whether the minister's aware of any other commuter car park funds.

Senator Hume: There are a number of commuter car park funds in Victoria. There is one run by the Victorian state Labor government, and there is another called the regional rail network, I think, which is a combined federal-state initiative. The Regional Rail Revival program is what it's called, and it is a federal and state initiative. Those two projects between them cover an awful lot of the north and north-west of Victoria, and they also cover regional areas, obviously, on that [inaudible].

Senator ANTIC: When was the first of those announced, if you're able to tell me that?

Senator Hume: That I can't tell you, because it might be a state government initiative. As to the Regional Rail Revival program, I can certainly take that on notice for you.

Senator ANTIC: Thank you. To your knowledge, were any of those announced in the lead-up to the 2018 Longman by-election?

Senator Hume: I think you're confusing that with the commuter car park park and ride commitments. That was the Labor initiative which was announced in 2018 in the lead-up to the Longman by-election.

Senator ANTIC: Yes, okay. How could it be that there were applications from states and territories? When the fund was announced on 1 July 2018, the first car parks were actually announced the day after, I think, by Bill Shorten, accompanied by the member for Dobell and the candidate for Robertson. How can that be?

Senator Hume: I'm afraid you're going to have to ask the then opposition leader, Bill Shorten, and the Labor Party that question. I'm the wrong person to ask.

Senator ANTIC: Thank you. There are no further questions from me.

CHAIR: Thank you very much, Senator Antic. Senator Keneally.

Senator KENEALLY: Thank you very much. I appreciate the call, Chair. I have some questions regarding the implementation of the commuter car park program. I think the words the auditor used this morning were that the administration of this program was 'very poor'. I ask the department, firstly: can you confirm, as of today, how many projects there are within the Urban Congestion Fund as a whole, how much they're worth and how many of these are commuter car parks?

Mr Atkinson: I think Mr Smith will be able to assist you.

Mr Smith: There are 177 current packages of work. The fund hasn't changed; it's still at \$4.8 billion. Sorry, in the second part of your question you broke up a little bit.

Senator KENEALLY: How many of these are commuter car parks?

Mr Smith: The number of commuter car parks is 43. I will put a little asterisk there: on the northern line as part of the Victorian projects, the government is obviously, as pointed out in the ANAO audit report, allowed to negotiate, I think, up to 10 more on that. So it's 43 current sites.

Senator KENEALLY: So it's 43 current, and it could be up to 10 more?

Mr Smith: It could be, yes.

Senator KENEALLY: Thank you. Of the commuter car parks component, how many of these have been completed?

Mr Smith: Two have been completed and three are under construction.

Senator KENEALLY: How many of the not-yet-commenced projects have progressed to detailed planning?

Mr Smith: The majority of the car parks are either going through feasibility stages or have entered into broader design type work. I could take on notice the specifics of all of that—there are 43 of them. I'm happy to take that on board.

Senator KENEALLY: Thank you. Do any of the car parks still lack a proponent?

Mr Smith: No. The feasibility studies are obviously being undertaken by proponents—whether that be councils or states.

Senator KENEALLY: So you're saying all of the 43 car park projects now have a proponent?

Mr Smith: Off the top of my head, I am not aware of any that don't have a proponent at this stage, for either the feasibility or the delivery. But I'll take that on notice.

Senator KENEALLY: Thank you. How many officers do you currently have dedicated to the Urban Congestion Fund as a whole and to the commuter car parks program specifically?

Mr Smith: I'm not sure I can answer that in general. The way we are divided up is that we have a policy area that looks after the broad policy, but the delivery aspects, which all these would be in, are run out of the state teams. There are between 140 and 150 people in the division, and the state teams would make up a reasonable proportion of that. All the Urban Congestion Fund projects are treated as standard projects under the Infrastructure Investment Program. So they're treated the same way as any other project.

Senator KENEALLY: Could you take that on notice and see what you can come back with in terms of trying to give us some kind of answer there. I want to go to page 40 of the audit report, which addresses the question of who approved the selection of the Mitcham car park site. The report says that the department told the Auditor-General a joint press release from the Prime Minister and the minister dated 7 February 2018 announcing funding for six sites, including Mitcham, was the authority for the funding of that site. Is that correct?

Mr Smith: Paragraph 3.9 refers to the fact that there was an email from the Prime Minister's office to our minister's office informing that Mitcham was approved.

Senator KENEALLY: An email from the Prime Minister's office to the minister?

Mr Smith: Sorry, the exact wording in 3.9 is that, in relation to Mitcham, the minister's office emailed the department advising that the Prime Minister's office had given approval for the site.

Senator KENEALLY: Did you ever see the email from the Prime Minister's office?

Mr Smith: We would have a copy of that email on our system if it was emailed from the minister's office to our officers. But that would be an email from our minister's office to our officials. So we would have that.

Senator KENEALLY: You have that, but do you have a copy of the email from the Prime Minister's office?

Mr Smith: I'm just reiterating what 3.9 says. Assuming this is factually correct, it says that—

Senator GALLAGHER: But Senator Keneally is asking you a different question—in addition to what we have got in the audit.

Mr Smith: Off the top of my head, I am not aware of whether we have an email from the Prime Minister's office. What I am aware of is what this is, which is that our minister's office emailed the department indicating that Mitcham had authority from the Prime Minister's office. All funding for those types of things, through the normal practice, gets authorised in the following budget.

Mr Hallinan: I would just make the follow-up point that the Audit Office advised, I think, that this was all they could find through their work with the department and that we were very open and collaborative through the process. I would take that as evidence that that is the information that we have on hand.

Senator KENEALLY: Okay, but the report says that you, the department, told the A-G that you were relying on a press release. The report does not say you told the A-G you were relying on an email from your minister's

office. The report says that you said there was a precedent established by the Department of the Prime Minister and Cabinet that a media announcement by the Prime Minister constitutes relevant authority to progress a project. Mr Atkinson, can you please explain the precedent explained by the Department of the Prime Minister and Cabinet?

Mr Atkinson: There were questions asked about this earlier. It is not a new thing for prime ministerial media releases to be regarded by the Public Service as authority for a decision from the Prime Minister.

Senator KENEALLY: Has the department of infrastructure spent money based on nothing more than a press release before and, if so, can you cite an example?

Mr Atkinson: The spending of money is a different thing; that's a policy announcement. Usually what happens is there's an announcement and then a project will get folded into the normal budget process, whatever the next economic update is after that, and that's where funding allocations and appropriations come through the normal formal processes.

Mr Hallinan: In this case, the projects would have been added to the schedules in the NPA, and an exchange of letters processed with the relevant state would occur, which would then be added into the partnership agreement with the jurisdiction. So there are a couple of levels at which that project is agreed to through government process.

Senator KENEALLY: So your assertion is that the only thing that was approved by the Prime Minister was the authority to progress the project?

Mr Hallinan: That's what we've seen in the context of this program, and that's what the audit identifies as well.

Senator KENEALLY: Back to my question, have you seen the email from the Prime Minister's office? Or do you just have an email from your minister's office?

Mr Hallinan: We will take that on notice. Me personally, no, I haven't.

Senator KENEALLY: Thank you. I appreciate that. I would also like to ask, before I run out of time, a couple of questions about the projects that were formally cancelled just a few days before the May budget. I know, for example, that in the electorate of Dunkley the government made a commitment that the money allocated to commuter car parks in the electorate would be reinvested into other 'congestion busting' projects—as they were called—within the electorate. Can you confirm that that commitment still stands?

Mr Smith: The government, in announcing that it was cancelling a number of projects, did actually say that money would remain within the UCF program. That money is still within the UCF program. I outlined earlier that the funding program is still \$4.8 billion, so there hasn't been a decrease at all.

Senator KENEALLY: But are you considering alternative sites within the electorate of Dunkley?

Mr Smith: I am actually not sure what sites are in Dunkley. I don't work on electorates; I work on projects. I would actually have to take on notice what projects are in there. But, for instance, there has been a number in the Victorian area where it was decided that a site not go ahead—and there's another car park further up the line—and that money has then been allocated to that car park or kept abreast, as I explained, with the northern lines where the government still has the \$70 million commitment to fund additional car parks. So they are being reallocated within those car parks or within the broader fund there. It's standard practice if a project is not proceeding for that money to remain with that state.

Senator KENEALLY: Let's just be clear. Your evidence is that the money is going to stay in the Urban Congestion Fund but not necessarily in the electorate of Dunkley?

Mr Smith: As I alluded to, I'm not sure what projects are in Dunkley. I'm not even sure what the boundaries of Dunkley are. I don't map that. What I do take notice of is the various projects that happen. The government will make appropriate decisions on projects and, if the government decides to invest in Dunkley, it will make that decision.

Senator KENEALLY: We heard this morning from the Auditor-General that the department at least had on their system spreadsheets, tracking sheets and maps that all indicated electorates. So I would really have to think that somewhere in your system you know what projects are in Dunkley. Can you please take that on notice and come back to us. The projects specifically are Kananook and Seaford. Can you tell me if that—

Mr Hallinan: I am familiar with those two project names that you have identified but I couldn't have told you they were in that electorate. We clarified in earlier evidence to this committee that we were not familiar with some of the documents that the Audit Office provided in evidence this morning or advised of in evidence this morning. Our understanding is that they may be documents that were either designed or shared through ministers'

offices or equivalent. They are not documents that the department is aware of. However, we have taken on notice that we will review our systems and see whether we do have any of those documents that were referred to.

Mr Atkinson: We are happy to take on notice what you just asked us to take on notice as well.

Senator KENEALLY: Thank you. This morning, when Mr Boyd gave evidence to the committee, he said, 'In a number of cases'—he was talking about the spreadsheets and tracking sheets—'Here's the dollars, here's the electorate, here's the state. Here's how much will go to the coalition and how much will go to the ALP,' and he was asked by Senator Gallagher if it was a ministerial document or a departmental document. He said: 'That was a department document. The department prepared it to inform a discussion between ministers.' Are you saying you didn't prepare such a document?

Mr Hallinan: I think we would need to review the *Hansard*. I was paying particular attention to the language that was used. I am not aware of any document prepared by the department either with the language that was identified earlier about the top 20 electorates or an electorate targeting strategy or any of that stuff.

Senator GALLAGHER: This one was a map, I think.

Mr Hallinan: Yes. I am also not aware of a map that was designed to target those matters by the department. But we can take that on notice.

Mr Atkinson: He didn't say it was a departmental document. He said it was—

Mr Hallinan: 'on our records'.

Mr Atkinson: 'on our IT system'.

Senator GALLAGHER: He says, 'That was a department document'. That is the *Hansard*.

Senator KENEALLY: He said it was prepared by the department. Yes.

Senator GALLAGHER: I asked him specifically.

Mr Hallinan: Was that the map?

Senator GALLAGHER: I think that was the map. Yes.

Mr Hallinan: We might have to clarify that on notice. That is certainly not something that any of us at the table are familiar with. It certainly wasn't produced to us through the development of the audit. I can ask my colleague, Mr Smith, if he recalls such a document being provided to us in the audit.

Mr Smith: As I said earlier, no, I don't recall such a document. But, Senator, going back to your other question: Frankston is in the electorate of Dunkley, and that was given some additional money as part of the recent budget.

Senator KENEALLY: Is that in place of Kananook and Seaford, is it in addition, or is it new money? What does that sentence mean?

Mr Smith: There would have been some reallocation from those other sites to the Frankston site.

Senator KENEALLY: But not all of it—some of it? Was some of it going outside of Dunkley?

Mr Smith: I will need to take on notice the specifics but there was certainly additional money added to the Frankston one.

Senator KENEALLY: In rounding out my questions—and with the greatest of respect to the department—it did sound like, from your opening statement, that perhaps you hadn't been aware of—or didn't share the views of—the Auditor-General and some of the observations and recommendations that they made. Secretary, when did you first become aware of the issues that have been raised by the Auditor-General?

Mr Atkinson: It would depend on what issue you're talking about. Are you talking about the role in project selection or are you talking about—

Senator KENEALLY: Let's start with the lack of a competitive open tender process.

Mr Atkinson: I wouldn't describe it as a lack of an open competitive tender process. The government made it—

Senator KENEALLY: That is how the Auditor-General described it, so, I'm sorry, I am using his words.

Mr Atkinson: Which page reference are you talking about, with respect to that?

Senator KENEALLY: His evidence this morning.

Mr Atkinson: I think it suggests in there that that's best practice for grants programs, or something to that effect. The national partnership arrangements, as I addressed earlier, have different arrangements. As I said on page 94 of my response, and as Mr Hallinan talked about, under the national partnership arrangements, there is a

whole series of other factors that are taken into account, and this is not a grants program. That is one of the fundamental issues of judging the national partnership model against the rules and guidelines for a grants program.

Senator KENEALLY: Did you raise any concerns with the minister following the Auditor-General's report?

Mr Atkinson: On these issues?

Senator KENEALLY: On the issues identified by the Auditor-General. I'm trying to understand what exactly in the Auditor-General's report do you accept and what do you reject, and have you done anything in response to the Auditor-General's report?

Mr Atkinson: We've accepted the recommendations of the Auditor-General's report which go to improving systems and business processes, going forward, and, if you look through the actual elements of the report that have the recommendations in detail, we also have what we're going to do against those. So we're working on all of those recommendations. The points of difference are with respect to some of the individual findings that didn't flow through into recommendations. They're largely underpinned by perspectives around the department's role in project selection, and that it actually was a decision of government to choose these projects.

Senator KENEALLY: The Auditor-General this morning referenced what he described as an analogous program around bridges that was run when Minister Truss was the minister, and he said it showed that you could run an open, competitive tender process with this type of project. Are you familiar with that program that he references that was run under Minister Truss, and do you disagree with the Auditor-General that it could have been a better way to do this—analogue to the bridges project?

Mr Atkinson: Just one point of clarification: the Auditor-General wasn't here today.

Senator KENEALLY: I apologise—the Audit Office. My apologies.

Mr Atkinson: I think you're referring to the Bridges Renewal Program.

Senator KENEALLY: Yes.

Mr Atkinson: We're sort of getting into the space of it being government's policy decision to run this program this way, and I can't give opinions as to government policy and whether they should have made a different choice.

Senator KENEALLY: When were you told that the government would run it this way?

Mr Atkinson: My predecessor, the former secretary, would have been told at some point in the formation of it, when there was a decision through cabinet processes to do it.

Mr Hallinan: That would have occurred through the final quarter of 2018, Senator—certainly for the UCF. For the CCF, I think that would have occurred over the first and second quarters of 2019.

Senator KENEALLY: Alright. I'm going to stop there, Chair. I think that Senator Gallagher, as well as Senator McCarthy, may have some additional questions. But I will stop there.

CHAIR: Thank you very much for your terrific time management, Senator Keneally. Senator Rice.

Senator RICE: Thanks, Mr Atkinson and others who are there. Can the department tell the Australian community exactly how many car parking spaces are going to be funded by the \$660 million Commuter Car Park Fund that was examined by the Audit Office?

Mr Hallinan: I don't think we'll be able to provide that detail until such time as all of the car parks have been appropriately scoped, designed and then implemented. We're a little while away from that yet.

Senator RICE: Isn't the fact that you can't tell us and that 'we're a little while away' from it and that a lot of those projects haven't had their feasibility studies done—haven't been scoped and analysed—actually in itself indicative of a total failure of a good evidence-based process here? If you did have an evidence based process of identifying the projects first, then doing the analysis and then deciding whether to fund them, you'd be able to tell us how many car spaces were going to be funded.

Mr Hallinan: Certainly, if there were a different program and plan where there had been an open tender or an equivalent, which I think is what the Audit Office have referred to in parts of their assessment, we would probably have better information to provide that advice. As I indicated in my opening statement, however, this was a program where the projects were identified by the Commonwealth, and, since those projects were identified and agreed as policies, we've been working with jurisdictions, and local councils through them, to identify feasible projects that can be developed in the constructs of those policies identified.

Senator RICE: How is that evidence based? In the principles that were outlined in the audit report, evidence based was one of them. Surely, making a decision as to which projects you're going to fund, to be evidence based,

you actually need to have the evidence as to the value of each project on the table before you make those decisions.

Mr Hallinan: As we go through the process of scoping each of those projects in detail, we will have the evidence base on which to make the assessments of each project. As they were announced, the projects had not been determined in detail or scoped in detail by proponents. For this one, we need to await that time frame, that process to undertake, in order to get the full detail.

Senator RICE: So there may be projects that the evidence doesn't stack up and the funding will be taken away from them?

Mr Hallinan: As I said in my opening statement, we've been working through government processes and cabinet processes since the announcements of the projects, and the government continues to make decisions in relation to these projects, including either changing the scope or ceasing until such time as there may be feasible projects for those projects that have been announced. I would envisage that we would continue to provide advice to government as projects are scoped in detail.

Senator RICE: I want to go to the Berwick car park. When was Berwick first selected as a car park site?

Mr Smith: I think the Berwick car park was approved in that list of 27 sites that's been discussed, in April, the day before the election was announced.

Senator RICE: So it was 10 April?

Mr Smith: Yes, 10 April.

Senator RICE: When did the Commonwealth first approach the state government about the car park?

Mr Hallinan: It would have been after the election. I'll have to take on notice the specifics, if Mr Smith has more on it.

Mr Smith: I think that it would have been after the government came back. We would have sent to Victoria the budget letter, which would have included it on its schedule.

Senator RICE: So well after it had been selected. When did the Commonwealth first identify that there would be efficiencies as part of building it with the level crossing removal project?

Mr Smith: That would have been identified in conversations with the Victorian officials given they were conducting similar works in that area.

Senator RICE: When would that have been?

Mr Smith: I'd have to take on notice the specific date. But there was a scoping proposal submitted to us 19 December. That would have had various elements in that, but I'll take on notice the specifics as to when. There might have been correspondence before that.

Senator RICE: So that analysis of the efficiencies was based on that scoping proposal? Or was there other analysis that was done?

Mr Smith: There would have been conversations ahead of that, so I'll take on notice the exact timeline for Berwick, if you like.

Senator RICE: Okay. Can you recall what other information the state government would have provided?

Mr Smith: They would have undertaken for us, I guess, a feasibility study that would have indicated a variety of options to deliver the government's commitment, and then the government would have made a decision around that.

Senator RICE: Could you table a copy of any of those documents that the state government provided—that analysis?

Mr Smith: I'll take that on notice.

Senator RICE: When did the department become aware that the efficiencies would not occur?

Mr Smith: Sorry, I'm not sure that I follow the question.

Senator RICE: Haven't we been told that the efficiencies aren't going to occur now, when it is leading to the cost of \$115,000 per car park space for the Berwick car park?

Mr Smith: Sorry, I'm still not quite following you. The cost of the car park and the site is really site-specific, so I'm not really quite sure—

Senator RICE: My understanding was that there was a process. The state government said that there would be efficiencies in building this car park as part of other works. Since then, you have been told that, in fact, those

efficiencies can no longer occur, can no longer be possible, which is leading to the astronomical price per car parking space.

Mr Smith: I don't think that the two are actually mutually exclusive. It would depend on what the original cost per car park would have been without those efficiencies, so I'd need to take that on notice. But I do point out the benchmarking is only one measure of value; it is not a sole determinate of value. When you look at a site, sites do have different complexities and different issues, so it really does come back to site specifics rather than just looking at a pure benchmarking as if it passes or fails a hurdle test. That's not actually how you look at social infrastructure such as car parks.

Senator RICE: But can I clarify that, in those initial discussions with the Victorian government, you were told that there could be efficiencies to build this car park in association with other works?

Mr Smith: Yes, I think that I answered that question before. I said yes to that and I've taken on notice the specifics because I would need to go back and look at all the various correspondence to see if there have been changes in cost per benchmark as a result of varying options.

Senator RICE: Right. Can I take you to the footnote 88 in the ANAO report, which says 'the state proposed to take advantage of efficiencies' in delivering the Australian government's car park at Berwick 'as part of the level crossing removal project at Clyde Road ... these efficiencies are no longer able to be realised owing to delays in the Australian government only confirming its funding for delivery of the project on 28 May 2021'.

Mr Smith: That looks like a response from the Victorian Department of Transport. As I said, I've taken on notice the specifics to confirm whether or not that is the Australian government's point of view.

Senator RICE: So does the Australian government accept that these efficiencies won't be able to be realised given that that is what the Victorian government is now telling us?

Mr Hallinan: We will have to take that on notice. We have been working with Victoria on implementation options for a whole range of them, including the Berwick site, and we can take on notice the specifics of Berwick. It might be attached to other construction that they have running in the area. But I can also liaise with officials in Victoria before we come back to you, if you like.

Senator RICE: Do you accept what's clear in that footnote, that the cost per car parking space has risen to astronomical levels because of the delay in funding for delivery?

Mr Hallinan: No.

Mr Smith: As I outlined, benchmarking is one attribute. There was a benefit-cost ratio provided by Victoria which was in excess of two for this particular project. That would indicate that this project has significant merit.

Senator RICE: That is not the question I was asking. Has any Commonwealth funding for the car park project gone into the level crossing removal and thus interchange?

Mr Smith: Not to my knowledge, no. Our funding is for the commuter car park.

CHAIR: Senator Rice, can we make that your last question, please.

Senator RICE: I've just got a quick question about one further topic. We had the ANAO giving evidence earlier on about how seriously the department is looking at the recommendations as to the implementation time line. How many of the ANAO recommendations have you implemented?

Mr Smith: We're actively implementing all the recommendations as we go through them. For instance, if I take the records management side of things, we took actions during the audit itself to improve our processes. That included shutting down relevant areas of the network drive so that people had to use the departmental system, as well as training. All the staff at the time went through that training. We have built it into induction programs and we're also undertaking various spot audits and heat audits to ensure that people are doing it.

In providing additional information to ministers on projects, I would point out that all our briefings have always included value-for-money assessments. We have undertaken to strengthen that through benchmarking and BCR analysis, as well as making sure that we spell out the quantitative and qualitative benefits of projects, which is about enhancing the level of briefing, which is currently already happening. In terms of the milestones, we again have gone through a process. We have a draft milestone business practice that is in the throes of getting finalised. We went through that process internally. We set up a governance committee. So we are taking the audit seriously.

Senator RICE: In the interests of time, would you be able to table the document that lines how you are going with implementing it for the recommendations?

Mr Smith: We certainly can, but, if you look through the report, against each recommendation, we have outlined a number of things that we are actually undertaking with regard to all of those already. But we'll certainly add more detail to that.

Senator RICE: That would be good. Here is one other thing to take on notice: you mentioned you've got benefit-cost ratios for each car park. Can you give us a list of those and your benefit-cost ratio instrument that you've been using to determine the benefit-cost ratios?

Mr Smith: We've tabled the guidelines around that. It's a bit tricky to table a tool, because it's a spreadsheet, but the guidelines there should give you comfort that the tool is accurate. We also had that reviewed by SMEC, and SMEC indicated that they found no errors or issues with the calculation tool itself.

Senator RICE: So can you table the list of values for each car park please?

Mr Smith: Yes, we'll take that on notice.

Senator RICE: Thank you.

CHAIR: Senator Rennick, do you have questions?

Senator RENNICK: I do. I'd like to first go to page 75 of the audit report, table 4.3. In the last two lines there's a cost for the car park quoted there by the Auditor-General for Woy Woy. The cost per space is \$211,000, which they say is 434 per cent above benchmark, and Panania is \$166,000, which is 522 per cent above the benchmark. Given that these were in scoping studies, where did those figures come from. Is that the actual price that you're going to pay? Where would the Auditor-General have got those numbers from?

Mr Hallinan: They might be indicative estimates provided to us in consultation with jurisdictions. They're not what I would consider, if it's just the scoping stage, the numbers that we would base a value-for-money assessment on to government in approving a project for delivery. We'll have to wait until those projects are scoped in detail before we can do that.

Senator RENNICK: So that hasn't gone through. That money has not been spent.

Mr Smith: No, we're still in the feasibility stage. Government will then need to make decisions about those car parks.

Senator RICE: I just wanted to check that. This is the thing I noticed: you said all these projects are actually going through feasibility and scoping studies. To me it seems like you're doing what you should be doing, which is due diligence. Where exactly is it that, in the words of the Auditor-General, the administration of the program is not effective? Given that you're going through due diligence, how can the Auditor-General rule that when you haven't even finished your scoping studies and due diligence?

Mr Smith: I think that's probably one of the areas where we would disagree with findings in the report. That is not the recommendations; we should be clear that we disagree with certain findings in the report, including the level at which the department has been effective in administering a program. The way the program has been designed is as a national partnership agreement, and we are working with jurisdictions to identify projects that can be delivered, at which point we make assessments to government with the PPR process on the delivery.

Senator RENNICK: That was another point that the Auditor-General's report made. It said that you did not appropriately engage with state governments and councils. I noticed that on page 95 the department actually disagreed with that. Do you know why the Auditor-General has a different view from the department on what's appropriate engagement with the states? Clearly, you guys have done the engagement, so you would know what you're doing. How has the Auditor-General come up with the view that you're not engaging with state governments given that you obviously are, through the due diligence process, the scoping studies and the feasibility studies?

Mr Hallinan: I think that comes down to the stage at which the projects have been identified or implemented. I suspect that the Auditor-General's view is based on the project selection process and whether or not there was a strong engagement with jurisdictions or implementing partners as the projects were initially identified. There's certainly been detailed consultation—much more so than I would usually do on each of the projects—since then.

Senator RENNICK: I get that comes back to the age-old question of what comes first: the chicken or the egg? If you don't identify a project, you don't know whether to go ahead with due diligence and scoping, do you? You could spend a lot of money on due diligence and scoping, but you've got to identify that project before you start the process, don't you?

Mr Hallinan: That's correct. There are lots of ways to identify the project.

Senator RENNICK: Exactly. I noticed the Victorian government, for example, with the Berwick car park has identified that there would be a benefit-cost ratio of 3.34 to one, so for every dollar invested it would generate over \$3 worth of benefits. Doesn't that support it being a good idea that we are building these car parks. At least in the case of Berwick you've got a cost-benefit analysis you are doing on other car parks, but where there is clear, demonstrable evidence of getting greater benefits than costs, yet again I'm a bit confused as to why the Auditor-General or the Audit Office would think that there's no clear evidence of effective management here.

Mr Hallinan: Certainly we are assessing and conducting assessments of benefit-cost ratios as we progress. I have a slightly different number for the Berwick one. It might be a different calculation or a different assumption on the discount rate. Ours is to 2.43, but it's well above one.

Senator RENNICK: So the benefit is greater than the cost.

Mr Hallinan: Substantially so.

Senator RENNICK: What is the standard funding arrangement with joint partnerships? I notice this one is pretty much 100 per cent funded, with the exemption of Frankston and maybe one or two others. The majority of the car parks are 100 per cent funded by the federal government. Is that standard for joint partnerships? I know the federal roads, for example, are 80-20. Is it usual for a joint partnership to be 100 per cent funded by the federal government?

Mr Hallinan: I think the fairest way to describe that is that we usually have a co-contribution for a jurisdiction or a council. Those co-contributions will vary depending on the project. We have a range. I could say that typically you might look at a 50-50 contribution for a major urban project. For a rural project it might be an 80-20 Commonwealth-state contribution split. But they'd change and they vary based on the specifics of either the program or the project in question.

Senator RENNICK: Given that in this particular case most car parks are 100 per cent funded, wouldn't it therefore be appropriate to say the federal government in the first instance would make the decision as to how federal government funds are being spent?

Mr Hallinan: That's certainly an argument that could be put.

Senator RENNICK: I want to come back to the benefits of this car park program, because it wasn't really touched on very much in the audit report. That was more focused on the process rather than the outcome. However, given that, as you've said, you're going through feasibility stages and scoping studies looking at cost-benefit analysis, that to me would indicate that proper due process is taking place. Would you agree with that?

Mr Hallinan: Yes, I would agree with that.

Senator RENNICK: Thank you.

CHAIR: Senator Gallagher.

Senator GALLAGHER: Mr Atkinson, I acknowledge you're in a difficult position. Decisions have been taken at government level and then you've had to follow through. From my reading of the audit report, what happened here was we had an urban congestion fund established. Then there was a political process put in place which you are not part of: the canvassing, as we've been informed. I presume you didn't have any idea about the canvassing process that was running alongside decisions here.

Mr Atkinson: No. I think the Audit Office was talking about the activities of ministers and their staff.

Senator GALLAGHER: That's right. I'm just checking that you didn't know there was a process which is called canvassing to discuss how projects would be allocated. So we've got the Prime Minister, Mr Morrison. We've got Mr McCormack. We've got Minister Tudge involved. In relation to the car parks, we have a number of other coalition MPs invited to have a view. We also have Minister Taylor and Minister Frydenberg, the Treasurer, put in applications. None of the car park sites selected came from the department. That's correct, isn't it? That's what the audit tells me.

Mr Atkinson: You are just asking about none of them coming from the department? That's my understanding.

Mr Hallinan: That's correct.

Senator GALLAGHER: So this group decided how to allocate \$660 million. You were then informed and then you had to implement it. That's right, isn't it?

Mr Atkinson: Senator, the only bit I can comment on is that we're responsible for implementing the decisions of government.

Senator GALLAGHER: That's right.

Mr Atkinson: In terms of how those decisions were taken, we can't comment at all. I'm not sure whether the ANAO was auditing the activities of the ministers or just us—

Senator GALLAGHER: They were auditing you, but clearly other information came into their hands. So the \$660 million was decided by this group of ministers—

Mr Atkinson: Sorry, Senator, I have no knowledge of that grouping.

Senator GALLAGHER: That's what the audit tells us. It's all played out in the audit. But, yes, I'm putting to you that this group decided—

Mr Atkinson: Sorry, on that group you're talking about, I didn't see that in the audit.

Senator GALLAGHER: It doesn't name them, but it goes through the Deputy Prime Minister, the Prime Minister, the minister, the member for Hume and the member for Kooyong and lists how many projects they put up through this canvassing, right? You're then told to implement this.

Mr Atkinson: Yes, Senator.

Senator GALLAGHER: Have you ever been put in that position before, where every single project allocated has not come from the department? As a public servant, have you ever seen anything like this before?

Mr Atkinson: Yes, I have, Senator.

Senator GALLAGHER: Every single project has come not from the department, not from any other list—

Senator Hume: Senator Gallagher, I would imagine that it would have been exactly how the department would have responded had Labor won the election. They would have then to had implement those numerous community car parks that were promised as Labor commitments as part of the national Park and Ride Fund. They would have been canvassed by local members—although I question how you canvassed Robertson, Banks and Bennelong, which were obviously part of that commuter national Park and Ride Fund, the \$300 million that Labor committed in 2018. If Labor had won, the department would have been responsible for administering those commitments.

Senator GALLAGHER: But these were decisions taken in government, Minister. You took these decisions in government. It was a different arrangement, the one that Labor was proposing, but we're not here to talk about the Labor proposal.

Senator Hume: But it's almost identical, Senator.

Senator GALLAGHER: Again, you're chewing up my time, but the Labor proposal was to invite applications from states and territories to demonstrate—and I can provide you with the media release to table. But we're not here to do that. You're trying to distract me.

Senator Hume: But they were announced and they were on social media. They were announced by candidates and they were announced by local members.

Senator GALLAGHER: Anyway, Minister, we're not here to discuss it. I can show you the media release providing guidance on that. We were in opposition, and it would have been actioned in government. We were not in government.

Senator Hume: That's right. That's exactly right.

Senator GALLAGHER: Mr Atkinson, under the PGPA Act, section 71 says:

(1) A Minister must not approve a proposed expenditure of relevant money unless the Minister is satisfied, after making reasonable inquiries, that the expenditure would be a proper—

efficient, effective, economical and ethical—

use of relevant money.

The audit found that there wasn't that assessment before the proposed expenditure was approved.

Mr Atkinson: There are two steps, Senator: there's the project announcement, but then there's the actual funding approval that happens as part of the PPR process, when the detailed analysis is done, and then the funding approval is signed off.

Senator GALLAGHER: So, the project announcement as opposed to the—what's the other section?

Mr Atkinson: The PPR—the signing off of the PPR. There are two steps in this process. Mr Hallinan might be able to assist you.

Senator GALLAGHER: I understand that, except that it was actioned on the eve of caretaker and reported in PEFO, the pre-election update. So it was accounted for—that the dollars were being spent—but you're saying that it's different because the final sign-off hasn't happened.

Mr Atkinson: The approval for expenditure of public money is in the post-PPR approval process. But Mr Hallinan and Mr Smith might be able to go into more detail.

Mr Hallinan: Senator, yes, if we're referring to the 27 sites that were included in the PEFO, the Pre-election Economic and Fiscal Outlook, the government did make its decision the day before the election was called. That was a decision taken but not yet announced, and the information included in PEFO—I think it's pages 26 and 28; I've brought it with me—identifies the Urban Congestion Fund priority projects on page 26, in the bottom row of table B2. There is no funding identified against it, because the decision's been taken as part of a bucket of funds in the Urban Congestion Fund policy remit of the government, so it's represented as dash points there. Then it refers to footnote (k), which is presented on page 28:

This measure commits funding of \$895.1 million over five years from 2019-20 for additional projects from unallocated funding in the Urban Congestion Fund, including: \$506.1 million to address congestion hot spots in New South Wales, Victoria, Queensland and Western Australia, and \$389.0 million for car park upgrades in New South Wales and Victoria

This is a process that identifies the information that's held in the contingency reserve—so decisions that have been taken. It doesn't appropriate the funds. The appropriation of the funds either has occurred earlier or will occur in the next budget update.

Senator GALLAGHER: It's occurred earlier in that instance, hasn't it?

Mr Hallinan: In that instance it has.

Senator GALLAGHER: So the money's appropriated—

Mr Atkinson: Sorry—it wouldn't have been appropriated, because it was post budget.

Mr Hallinan: Because it's in dash points it's been appropriated to the overall Urban Congestion Fund bucket.

Senator GALLAGHER: Yes, exactly.

Mr Hallinan: This is an allocation of money from that bucket. Then, post election, we provide advice to government on how to scope those projects and what they look like.

Senator GALLAGHER: So that's how you reckon you meet those requirements of the PGPA Act—the money's there, but, until the project detail is signed off and all those agreements are entered into, the minister isn't actually approving the expenditure of that fund.

Mr Atkinson: Yes, so we're not signing off on expenditure until that's all done.

Mr Hallinan: Expenditure is signed off in the processes of either scoping the projects or implementing the projects.

Senator GALLAGHER: Perhaps you could give us a status update on the 47 car parks. Actually, you've knocked some out, haven't you, so you're down to 43.

Mr Smith: Yes, 43.

Senator GALLAGHER: I think, in your opening statement, you gave us an update on 38 of them. You gave us some information about 38.

Mr Atkinson: The status is that there are two being delivered and where the others were up to.

Senator GALLAGHER: Yes. Let's start with that.

Mr Hallinan: Mr Smith, do you want to talk us through?

Mr Smith: Certainly. Beaconsfield has been completed. Beenleigh is in planning—

Senator GALLAGHER: Would we be able to have that document? I've only 15 got minutes, and I think it will take 15 minutes for you—

Mr Atkinson: We're happy to take on notice where each of them is up to.

Senator GALLAGHER: A status update on the projects?

Mr Smith: We could do that.

Senator GALLAGHER: It's just that, if you take it on notice, it takes us months to get the information, so I'd prefer it be provided in the hearing.

Mr Atkinson: The reporting date is 29 July; it's next week.

Senator GALLAGHER: I know, but do you meet all those time frames?

Mr Atkinson: I definitely try to.

Senator GALLAGHER: I know you try to.

Mr Atkinson: I was surprised it was so fast, but—

Mr Smith: This one we should be able to. I should just add, going back to the earlier comment on value for money, that if we look at delivery PPRs—and I think this was captured in the audit report—there is a value-for-money assessment taken as part of those. Our disagreement with the Audit Office is about the level of depth in terms of providing it. We've agreed to provide more depth around benchmarking BCRs, but, for all delivery PPRs, we do provide a value-for-money assessment, consistent with section 71 of the PGPA Act.

Mr Atkinson: Mr Smith's just given more detail on what I said earlier.

Senator GALLAGHER: So that's how you meet it, right at the end.

Mr Atkinson: It's not right at the end. It's at the approval-of-funding point.

Senator GALLAGHER: What's provided at the point to get you to action things? What is the decision that's taken then, by the minister?

Mr Smith: Do you mean before they are announced or after they are announced?

Senator GALLAGHER: At the point that the minister makes a decision—the point at which you got told, through the spreadsheets, I guess. You get told, 'These car parks are the ones we've agreed to', and that's enough for you to then go and start the work, is it?

Mr Atkinson: Sorry—so you're talking about the project selection point as opposed to the PPR approval point?

Senator GALLAGHER: I'm trying to understand, because it seems to me that the government make an announcement and say they're going to allocate this much money. But you're saying that's not the point that money is actually approved for expenditure. That happens much further down the track.

Mr Smith: Money is committed. The normal process is that government will make decisions on projects and allocate funding for that. That's a commitment. Then we go through the process of formally getting that authorised, and that's generally endorsed either through cabinet processes or letters to prime ministers, which is standard practice, as you heard from the ANAO. The next stage of the process is getting it scoped, getting it agreed by the states. You then get in the PPR processes, which then get the formal approvals of the money under the National Land Transport Act, and that then goes through the various processes there. So the formal sign-off of expenditure is different to the commitment. It's after that.

Senator GALLAGHER: Okay. So that's the defence on how you meet that requirement of the act.

Mr Atkinson: Sorry Senator, I wouldn't use 'defence' as a word. It's just how we deal with—and it's how we deal with all projects. When they get to the PPR point, that's actually where we do the detailed analysis and the proper sign-off of funding. It's not an unusual—

Senator GALLAGHER: Okay. Mr Smith, in terms of the document that you were going to read from, is there a way that can be provided to the committee during this hearing? I accept that you might have notes on that or something that you don't want to give us, but is there a version that can be provided? Secretary, perhaps you can review that and have a view on that? That would be good. I'm interested in the department having a view that the car park announcements should have been considered as election commitments. I think that the advice from the Auditor-General today, or the language he used, was that he was perplexed by your view that these should all be handled as election commitments, when 27 of them reflected a decision taken by the government but not yet announced. It was included in the Pre-election Economic and Fiscal Outlook reporting against them and has dealt with them in a different way. Although I think you say that you're reporting against them as election commitments. Why do you disagree on that—simply because they were announced in the election period as opposed to a decision taken? Is that your evidence?

Mr Hallinan: I don't think we see those two terms as mutually exclusive. The decisions taken by the government on the eve of the election are then announced as commitments in the election campaign. They've been tracked by government since that point as election commitments. We've reported on them as election commitments. I think there are other cabinet documents of the government that identified them as election commitments as well. To be honest and completely open, I think it's a little bit of a semantic point.

Senator GALLAGHER: Is it, though? We're talking about public funds that have been appropriated for a particular purpose. The Prime Minister makes the decision or authorises the decision on his letterhead as leader of the executive council, and it's all formalised, including signed off by Treasury and PM&C in that pre-election—

Mr Atkinson: Finance, I think.

Mr Hallinan: Finance, yes.

Senator GALLAGHER: Yes, Finance, in that pre-election period. That is different. It's a decision made when you were in government, as opposed to a political decision made in the context of an election campaign.

Mr Hallinan: Sure, it was certainly a decision taken in government. That's clear. But it was also a commitment made publicly in an election. It was tracked by departments across the Commonwealth as a series of election commitments from that point. That's just a matter of record and fact.

Mr Atkinson: They were announced during the election campaign.

Senator GALLAGHER: Yes, sure. But it was a decision taken in government.

Mr Atkinson: And, then, a commitment to the Australian people in an election campaign.

Senator GALLAGHER: Okay. It's an interesting way that you can fund your election campaign, isn't it? You take all these decisions prior, through these funds you've established, but then you can politically allocate that money in an election campaign. I can't see how they would be treated the same as election commitments, to be honest, because the decision was taken in government and presumably was being actioned by you guys.

Mr Atkinson: It wasn't being actioned, because it was caretaker. This was on the eve of the election.

Senator GALLAGHER: So you didn't action anything? The Auditor-General said, in the incoming briefs, they were noted down as decisions taken by government. That was the evidence this morning.

Mr Atkinson: Sorry, Senator—my understanding was that these decisions were literally on the eve of caretaker.

Senator GALLAGHER: They were.

Mr Hallinan: We can't implement anything during a caretaker period while parliament is prorogued unless there's a consultation with—

Senator GALLAGHER: I understand caretaker conventions. But the evidence this morning was that they were noted as decisions taken by the government in incoming briefs—presumably they were prepared for both parties.

Mr Atkinson: I would have to check that because once again it was my predecessor not me. The point that I would make is what Mr Hallinan made is that there were also cabinet documents that the ANAO didn't reference that clearly articulated that these were election commitments and were to be delivered as such.

Senator GALLAGHER: Yes, but that's the government writing that they're election commitments. That's them deciding that they are going to be treated as election commitments, as opposed to the facts which would have them decided prior to caretaker as a decision of executive government. I read your response to it. I'm interested in why the department has put themselves in the middle of this to disagree about it.

Mr Atkinson: We're not putting ourselves in the middle of it. It's separating ourselves from the choices that we're implementing. As Mr Hallinan said, I don't see the two as mutually exclusive. They were commitments made to the Australian people in an election campaign during caretaker. That's when they were announced so they were election commitments.

Senator GALLAGHER: How much of the \$4.6 billion Urban Congestion Fund is currently allocated?

Mr Smith: Currently \$3.9 billion has been allocated. So it's \$890 million unallocated.

Senator GALLAGHER: Where the Audit Office says 155 projects—we've now got it up to 170-something I think you gave?

Mr Smith: They would have been talking about project count. There's project count and then packages of work. The project might have multiple sites within it so—

Senator GALLAGHER: How many projects if we use the 155?

Mr Smith: It's currently 144 projects and 177 packages of work.

Senator GALLAGHER: Does that mean a few projects have dropped out?

Mr Smith: There were a few that were announced in the last budget as not proceeding—

Senator GALLAGHER: So that's some of those car parks—

Mr Smith: Seaford, Balaclava—there are a few there that were previously announced.

Senator GALLAGHER: So there are 144. Is it still that only nine of them that have been put forward by the department?

Mr Smith: Now you're talking about car parks specifically?

Senator GALLAGHER: No, I'm talking about the Urban Congestion Fund. In the audit report it says 155 projects have been selected for funding. Nine had been put forward by the department. It's still nine?

Mr Smith: That's correct.

Senator GALLAGHER: Of the \$890 million left are there any changes to the way the funds are being allocated since this audit has come out or will it be the same way that it will be generated by decisions of government which you then implement? Mr Atkinson, do you know?

Mr Atkinson: The approach to the allocation of the funding going forward would be a decision for the government just like the current approach was a decision for government.

Senator GALLAGHER: We've still got \$890 million to allocate. Do you know when that is going to be allocated?

Mr Atkinson: That will be a matter for the government.

Mr Hallinan: To some extent that will depend on the detailed scoping studies that come back on projects. It would be fair to say at this point that we don't have final budgets on a range of the projects and that may change the allocated and unallocated estimates.

Senator GALLAGHER: So this might be a contingency component?

Mr Hallinan: I wouldn't describe it as contingency; I'd just describe it as currently unallocated.

Senator GALLAGHER: There are no changes to the way this funding has been allocated. As far as you're aware, it will just continue on the way it has. Will you provide more projects? Will you nominate more projects for that \$890 million?

Mr Atkinson: I'd put it this way: it will be the government's choice as to how they address or use the unallocated funding, and they haven't announced any choices with respect to that.

Senator GALLAGHER: Chair, I've finished on—

Senator Hume: Chair, do you mind if I jump in there to remind Senator Gallagher that the projects in the UCF were entirely selected based on identified needs? Following the establishment of that fund, submissions for funding were made to the government by a combination of community groups and local councils and also MPs, who represent their local communities, clearly. The only Labor MP—and of course it was open to Labor MPs—who wrote to government before the last election requesting a project be funded under the Urban Congestion Fund was Graham Perrett, the member for Moreton, who advocated, for his community, for the Boundary Road level crossing removal. The Commonwealth subsequently funded that project to the tune of \$73 million. This is one of the biggest Commonwealth commitments in the Urban Congestion Fund.

CHAIR: Thank you for that, Minister. Senator McCarthy.

Senator McCARTHY: Thank you, Chair. To the department: I just need to get a clarification, if I can, on your statement and the reasons behind your being unable to provide the legal advice or the policy advice. Could you provide clarification on why you're not able to do that?

Mr Atkinson: I'm sure Mr Hallinan will jump in. The spreadsheets are being referred to the minister for public interest immunity consideration. The legal advice, also for public interest reasons, the Commonwealth doesn't table at hearings.

Senator McCARTHY: When do you expect your response to your reference to the minister?

Mr Atkinson: In a matter of days, I expect. Mr Hallinan?

Mr Hallinan: Yes. We wouldn't anticipate any reason for delay. The position of successive governments on disclosure of legal advice is that it's not in the public interest, as government's ability to obtain confidential legal advice is essential to sound policymaking and lawmaking, and therefore it is the longstanding practice of governments not to disclose. Ultimately, it's a matter for a minister to claim PII. I'm not in a position to undermine the positions that have been longstanding on this, and we will refer it to the minister.

Mr Atkinson: We're just referring the cabinet-in-confidence spreadsheets to the minister. I think that everybody can accept the legal advice isn't in question.

Senator McCARTHY: Alright. Thank you. Chair, I will refer to Senator Gallagher to continue her line of questioning for Labor.

Senator GALLAGHER: It looks like we might be able to get a document?

Mr Atkinson: Yes, we did table it. That's fine.

Mr Smith: I should point out that we tabled that earlier document that has exactly the same information.

Senator GALLAGHER: It's so tiny I need a magnifying glass to read it, which I don't have here.

Mr Smith: That's why mine was bigger.

Senator GALLAGHER: I didn't want to look like an old lady trying to—

Mr Atkinson: I have seen smaller, but it is hard to read.

Senator GALLAGHER: Is that an update on all of the projects?

Mr Smith: All the car parks, yes.

Senator GALLAGHER: It would have taken me a while to work through that, so thank you if it's coming in bigger font.

Mr Hallinan, in your opening address you said:

The department has worked closely with ministers and provided advice into cabinet deliberations relating to the commuter car park fund in various forms over the past six to 12 months.

Is that just a general time frame? Presumably, the department had some involvement when the car park fund was established?

Mr Hallinan: Yes, that's just a general comment. Obviously, the department was working closely with ministers and government throughout the period. That's a reflection on the work that's been undertaken both in the latter period of Minister Tudge's time in the portfolio and in the early period of Minister Fletcher's time in the portfolio. It's to give some idea that there's consideration by government of various projects that have been announced for either changes in scope or not going ahead. Those decisions of government are announced through the usual budget updates, and in the last budget there was a range of announcements attached to it.

Senator GALLAGHER: Are you aware of when you got the notice on 10 April about the new car parks? Do you know when that information arrived with the department? I think the audit office said it was actioned by a letter. It sounds like the Minister for Finance was processing a whole range of decisions on the eve of caretaker of which this formed part. That's what I've picked up from the evidence of the auditor. But then how did you get information about that? Did you get the letter that the Prime Minister signed, or did you get advice from the minister?

Mr Hallinan: I'll have to take it on notice, but I would expect that we received a copy of the letter through normal channels over the days after the letter was signed.

Senator GALLAGHER: So you don't know if you got it before caretaker.

Mr Atkinson: We'll take on notice exactly when, but I would expect the way it works usually with caretaker is that PM&C make sure all the letters get out to everybody on the same day.

Senator GALLAGHER: Yes. We have had examples of when people found out afterwards, so I'm just trying to understand.

Mr Atkinson: We'll find out the exact detail, but I hadn't heard that we didn't know on the day.

Senator GALLAGHER: Okay. I'm jumping around a bit, but I'll go back to the Urban Congestion Fund—and, again, this might be pre everyone's time here. Back in November 2018—this was when the spreadsheets were moving into and fro through that month of November, and they were allocating the original \$1 billion that was attached—the department put forward 19 project and then an additional 25. The department provided the minister's office state-by-state spreadsheets that presented the department's data analysis against 25 projects that it had identified, including the 19 proposed in the prior email. That obviously went to the minister. The minister then returned the spreadsheet with additional projects added to it, which then you put into a bigger document, a bigger spreadsheet. But were you ever told where those projects had come from? How were you given information about those projects, other than them just being added to the spreadsheet? Did you go: 'Whether did these come from?'

Mr Hallinan: I'm not aware that we were advised when they came from.

Senator GALLAGHER: They just appeared on the spreadsheet; that may be the first time you ever heard about them.

Mr Hallinan: That could be the case. I will have to confirm.

Mr Atkinson: I think 2.31 has a bit of conversation about where various things came from.

Senator GALLAGHER: Yes, but I'm asking a different question. This is the largest spreadsheet now. It's got 51 projects, which is a combination of ones the department has put forward, 24 the minister's office has identified and one from the New South Wales government. Of those 24 that were identified by the minister's office, was the

department aware of them? Did they exist on another priority list or Infrastructure Australia work or anything like that, or did they just kind of appear?

Mr Hallinan: I think we'll have to take that on notice.

Senator GALLAGHER: Okay.

Mr Atkinson: You're basically asking, of the ones that came to us—

Senator GALLAGHER: Where they came from, yes

Mr Atkinson: how many were previously known to us?

Senator GALLAGHER: Yes, that's the question I'm asking. But you'll have to take that on notice.

Mr Atkinson: Yes.

Senator GALLAGHER: Okay. I presume 2.32 answers this to some degree. Following further consultations, which the department is not necessarily involved in—is that right? On the spreadsheets—

Mr Atkinson: That says, 'Following the minister's office's consultation.'

Senator GALLAGHER: It says, 'Following its consultations, the Minister's Office ...' I'm just making doubly sure that you guys are not involved in that. The minister's office provided a revised list of potential projects to the department. This was 39 projects, which were then selected by the government a month later, in January, for the allocation of \$1 billion. And none of this had been put forward by the department following its analysis. That means that the 25 projects that you'd identified, which included the 19 in the email, have been cut off the list.

Mr Hallinan: Yes. We don't dispute any of the records that the ANAO has presented in that context.

Senator GALLAGHER: Have you got a list of the 25 projects you put forward that didn't get agreed to? Could I have a copy of those?

Mr Hallinan: I think that goes to the spreadsheets that we haven't been able to table. We are referring to the minister for public interest immunity.

Senator GALLAGHER: I'm separately asking now for a list of those 25 projects that you provided to the minister's office on 2 November 2018. Was that in a spreadsheet?

Mr Smith: Yes, that would have been in a spreadsheet.

Senator GALLAGHER: And the 19 that were provided in an email—was that a spreadsheet?

Mr Smith: There would have been a spreadsheet attached.

Senator GALLAGHER: The department started the spreadsheets, so that's the subject of the public interest immunity claim—all of those spreadsheets and the various versions of them. Is that your understanding?

Mr Hallinan: The spreadsheets that the department provided advice into government decision-making processes, yes. I did clarify earlier that there may be other spreadsheets that we're not aware of, that we haven't seen before. As I said, the Audit Office introduced evidence to the committee that I was unaware of before this morning. If we don't hold them and we don't know about them, I just want to make it completely clear to you that it's not information that we hold. So there may be other spreadsheets there that we have never seen.

Senator GALLAGHER: And you will take it on notice about whether any of the final 39 projects were known to you in any way?

Mr Hallinan: Yes.

Senator GALLAGHER: I think we covered the media releases, didn't we—the press release? You took that as an authority.

Mr Atkinson: Yes. Senator Keneally—

Senator GALLAGHER: Yes, she did. That did have a money allocation to it—of \$15 million, I think Mitcham was. Is it your evidence that approval of that money is subject to this other process and that, in terms of expending public money, the press release didn't actually do that; that happens further down the track?

Mr Hallinan: Yes. I can walk you through the machinery steps if you like, Senator.

Senator GALLAGHER: I get it. I'm just trying to be clear about what your evidence is. I guess the press release didn't come with an asterisk saying, 'Pending further assessment, final costings and site selection,' or anything like that. It said, 'This is how we will spend some money.' That's not related to you; that's related to the Prime Minister. There wasn't any caveat on it.

Mr Atkinson: The absence of caveats on media releases for at least 20 years has been a frustration of public servants.

Senator GALLAGHER: For public servants?

Mr Atkinson: Yes.

Senator GALLAGHER: In general. Okay. I was interested in a discussion about the proximity of car parks to stations. My understanding is that you're updating the advice around that, about how it relates to meeting your responsibilities under various pieces of legislation—I think the LN, what is it?

Mr Hallinan: The National Land Transport Act?

Senator GALLAGHER: Yes.

Mr Atkinson: You're talking about in relation to the intermodal facilities?

Senator GALLAGHER: I am, and I think you rely on the *Macquarie Dictionary's* definition of 'facility' at one point.

Mr Atkinson: I think our legal advice might be—I'll pass that on to these guys.

Mr Smith: Yes, we've had legal advice since 28 August 2018 that actually indicated that intermodal facilities at train stations are eligible under the act. We've interpreted that quite broadly. We sought clarification along the way as feasibility studies came in. We had, in my opinion, definitive advice that any intermodal facility—which a car park is classified as—in the vicinity of a train station would be covered under the National Land Transport Act. It doesn't actually have to be attached; it can be in the vicinity. We are obviously applying a commonsense approach to that. If it's several kilometres away, you would say that's not in the vicinity, but, if it's within a reasonable walking distance and you have reasonable access, we are taking that as consistent with that advice.

Senator GALLAGHER: Okay. So again you feel comfortable that, in terms of some of the concerns that were being raised, you are covering those off in the advice you had and the advice you're now seeking?

Mr Smith: Yes. I think the Audit Office in some of their commentary was actually talking about an administrative process. Under the act, intermodals are classified under section 10(e). A few administrative processes highlighted it as 10(a). So that's an administrative error where they should have circled 10(e).

Senator GALLAGHER: Yes, okay. The audit has a number in paragraph 3.30, where it says:

As at 31 March 2021, authority had been obtained for the Australian Government to fully fund 29 of the commuter car park projects ... That is, to no longer require a co-contribution from the delivery partner ...

Is there any update to that? Will I find that from the table you've given me?

Mr Smith: That will certainly be on that microscopic table, and as soon as this other table arrives—

Senator GALLAGHER: Okay. So you can glean that information from there?

Mr Atkinson: It's in the AG contribution column.

Senator GALLAGHER: Okay. Are you able to just tell me what that is? Has it changed from what the audit said? That was 31 March.

Mr Smith: It probably has changed, because a couple of car parks have dropped off and a couple have been added on, so I would need to double-check the numbers. So I would need to take that on notice to give you that number.

Senator GALLAGHER: Okay. We're currently at 43. Do you think those 43 car parks will proceed?

Mr Smith: We're going through the feasibility studies. A number are obviously in construction or have been delivered, and we're going through the planning processes for the rest of those, so we need to wait on that. But we'd be confident that the vast majority will proceed.

Senator GALLAGHER: Okay. And you have engaged with states, territories, and local councils?

Mr Smith: States, territories, and local councils are undertaking the feasibility studies on our behalf.

Senator GALLAGHER: Okay. Chair, I'm happy to hand the call over. I might have a couple of questions just to tidy up, but I will endeavour to finish before two. Thank you for being generous.

CHAIR: Thank you very much, Senator.

Senator ANTIC: I just have a question for Mr Atkinson. I think he said earlier in the evidence that he's seen this before. I'm interested in what exactly he's referring to. Was it the 2014 RDA ANAO report that he was referring to?

Mr Atkinson: I have not seen it with respect to car parks, but, yes, in previous governments across the course of my career I have seen these types of approaches.

Senator ANTIC: You would recall that your department was audited, I think, for the administration of the RDA funds in, I think, 2014. Is that right?

Mr Atkinson: I suspect so.

Senator ANTIC: Do you recall what the ANAO found in that report?

Mr Atkinson: I can't recall off the top of my head. Sorry, Senator.

Senator Hume: Chair, I can step in there, because I have some documentation.

CHAIR: Very well prepared, Senator Hume!

Senator Hume: The ANAO report found that the then minister, Catherine King, approved 23 of the applications that had been categorised as not recommended for funding, to a total amount of \$90.6 million. So that is about 40 per cent of the total funding that was awarded under rounds 3 and 4 which went to applications drawn from the lowest category of merit. On top of that, that report says:

A feature of the Minister's decision making was the lack of strong alignment between the funding decisions taken and the panel's recommendations—nearly half of the funding awarded (48 per cent) went to applications that been categorised as other than 'Recommended for Funding'. In total, 74 decisions were taken by the Minister over rounds three and four that diverged from the advice of the panel.

Senator ANTIC: We're happy to describe it as the misuse of funds as you've described it there—and what could we have seen if the Labor Party's park-and-ride had actually come to fruition.

Senator Hume: Again, that's a good question. I suppose we can only speculate and thank heaven it didn't happen. We know that Labor took that policy to the 2019 election. It was a \$300 million park-and-ride fund to build new car park spaces and multistorey car parks in the areas that it identified as high-growth and high need. Labor routinely made announcements in key seats where they would fund those projects—in the lead-up to the 2018 Longman by-election, for instance. They also made announcements in the Central Coast of New South Wales, in the two seats that they were either targeting to win or desperately trying to hold—Robertson and Dobell. There was absolutely no process, though, in that announcement. There was no detail as to how they had worked with state governments to implement those commitments. They simply hand-picked the sites in key seats. Those announcements have been tabled in the document I tabled earlier.

Senator ANTIC: Perhaps this is also a question for the minister. Is the minister aware of previous audit findings on grant programs? If so, can she explain what steps the government has taken to learn from previous findings.

Senator Hume: That's a good question. I don't think we ever see an ANAO report that we don't learn from. There were two reports that we specifically sought to learn from in this circumstance. In 2008, the then minister, Mr Albanese, announced the establishment of the Regional and Local Community Infrastructure Program, which he was responsible for administering. In 2010 the ANAO investigated the strategic projects component of that program, along with the minister's involvement. That independent audit found that Mr Albanese's ministerial office intervened and determined which projects should be funded. I'm going to quote from that report. It says:

... on 21 April 2009 the Minister's Office advised the department that the following criteria had been applied:

.....

At this time, the Minister's Office also provided the department with a list of 137 projects that the Minister intended to recommend to Cabinet for funding approval. That's from page 43 of the ANAO's Audit Report No.3 2010–11.

It went on to say:

... the Minister's correspondence alone did not provide a sufficient record of the assessments that had been undertaken and, in particular, the basis for why it was decided that certain applications were more worthy of being approved for funding compared with other applications.

That's from page 44 of the same report. It also went on to say:

... whilst the majority of applications received related to projects located in a Coalition held electorate (55 per cent of all applications), the significant majority (some 82 per cent) of these were not approved for funding. As a result, projects in a Coalition held electorate comprised 36 per cent of approved applications, with an approval rate of 18.4 per cent ...

So, clearly, process was abandoned and ineligible projects were funded. On page 38, the report says:

... in one instance Ministers made an explicit decision to approve an application that was known to be otherwise ineligible under the Guidelines but, in another 90 instances, approved non-compliant and/or ineligible projects without being made aware of this by the department.

The report says:

... in one instance, Ministers explicitly decided to waive the project eligibility criteria for an application they wished to fund.

The report says:

... the equitable consideration of all applicants was not evident in the processes employed.

That's at page 37. So I think you can see that funding favoured Labor seats. Hang on, there's more. The report says:

... projects located in electorates held by the Australian Labor Party (ALP) and Independent Members were more successful at being awarded funding than those located in electorates held by the Coalition parties.

That's at page 24 of the ANAO report. The report also says:

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

So there is much to learn I believe from previous ANAO reports. I thank the ANAO for their extremely good work.

Senator GALLAGHER: That wasn't the view of government senators this morning, Minister. They didn't thank the Audit Office for their good work. They did the opposite.

CHAIR: Senator Gallagher, we're trying to be respectful of each other's question time. Senator Antic?

Senator ANTIC: I think that might have covered my questions.

Senator GALLAGHER: Really? What a surprise!

Senator ANTIC: I think it was largely covered there, but we could have a little more information about how those failings in previous audits have shaped the formulation of the current programs. I think the minister touched on a little bit of that. I don't know if there is more she would like to add.

Senator Hume: I can say that in July 2010 the minister indicated to the ANAO that he had a very different perspective in respect of the distribution of funding. In particular the minister at that stage informed the ANAO that he considered that the distribution of allocations was 'skewed as it reflected wide variations in council numbers and sizes across the country'. Senator Antic, I can say to you that those learnings from previous ANAO reports and ANAO audits have informed the construction and design of the current program.

Senator ANTIC: Thank you. I have one final question. Can you tell me anything previous governments have actually done in respect of disagreeing with the ANAO? Has there been any of that?

Senator Hume: Sorry, that was exactly what I just said, Senator Antic. I said that Minister Albanese at the time said that he had a very different perspective from the ANAO—

Senator GALLAGHER: She answered that before you asked it.

Senator ANTIC: It's slightly different, Senator Gallagher, but in any event thank you for your contribution.

Senator GALLAGHER: Oh, sorry.

Senator ANTIC: It's always helpful.

Senator GALLAGHER: Yes, thank you.

CHAIR: Thank you very much, Senator Antic. Senator Rice?

Senator RICE: With regard to 'Labor did it too', two wrongs do not make a right. The Australian community are absolutely fed up with roorting. They really are. They want to see transparent processes. Mr Atkinson, you mentioned that there was legal advice sought in August 2018 about funding commuter car parks. What prompted the seeking of that advice?

Mr Atkinson: I believe it was Mr Smith who mentioned the legal advice from 2018.

Senator RICE: Okay, sorry.

Mr Atkinson: I think it was just considerations around the model of compliance. Mr Smith might wish to add to that.

Mr Smith: I think that's right. Obviously, if you look at the chronology over that period of time, you see that some thoughts around funding car parks had come up. Car parks are generally funded as part of railways. It was just ensuring that we fully understood what the definition of an intermodal terminal would be.

Senator RICE: You say that there were some thoughts around funding car parks. Can you expand on that? What did those thoughts look like?

Mr Smith: I think they're outlined in the ANAO audit report in terms of there were some processes around the Urban Congestion Fund. As I pointed out in my answer earlier, the department has funded car parks as part of

railroad programs before. It was ensuring that it understood what the definition of 'intermodal' would be. I think the audit report points out there was some conversation around seeking advice on car parks at that stage. The advice was sought to ensure that we could fund things.

Senator RICE: Have there been further occasions when you have sought legal advice on funding car parks under the National Land Transport Act?

Mr Smith: Yes. You may not have heard my earlier answer. We've sought a series of advice over time, depending on various circumstances. We've a fairly well laid out process where we have a policy team that looks at eligibility under the act. If a question comes to them that they're unfamiliar with or believe needs clarification, we seek appropriate legal advice. So we've sought advice on a number of occasions to firm up various forms of funding under the act.

Senator RICE: I'm sorry, I missed that. Could you table, at the very least, a list of all of those times you have sought advice? Ideally, I'd love to have the advice tabled, but I don't expect you to answer positively for that.

Mr Smith: Obviously, we sought to take on notice the actual advice itself. But, in terms of dates, I don't see any particular issue with the dates. We have sought legal advice.

Senator RICE: Okay. If you could table both the list of the times and the advice, that would be very useful. Thank you.

Mr Atkinson: I indicated earlier that we probably wouldn't be tabling the advice for the public interest reasons that Mr Hallinan read out extensively earlier with respect to the usual practice with Commonwealth legal advice.

Senator RICE: I thought you just said, though, that you probably could table the advice. I'm sorry, I misheard.

Mr Atkinson: No. I said that we could table a list of the timing of the advice.

Mr Smith: If it's helpful, I can run through the dates that we have.

Senator RICE: No. If you could take it on notice and get it to us promptly, that would be useful, rather than taking up time now.

Mr Smith: Sure.

Senator RICE: I'd like to go to the cost benchmarking that you've talked about, which is mentioned in paragraph 4.46. What date did the minister request the cost benchmarking?

Mr Hallinan: I'm not sure that we have a specific date at hand with us, Senator. I think we did two cost benchmarking assessments: one, as identified in this paragraph, through Turner and Townsend in June 2020 and another in the range of 12 to 24 months prior to that. So we've got a couple of cost benchmark studies that we're using. We can take on notice the dates at which we sought to undertake them.

Senator RICE: Can you give us a copy of the advice for the cost benchmarking?

Mr Smith: We can certainly take that on notice. There are probably a few things that we might need to withdraw, but I guess what you're looking at is the cost range per space et cetera. I think that we can table that.

Senator RICE: The first one was Turner and Townsend. I think it's contract notice 3692534, I'm told, the procurement for that advice. Did you approach any other suppliers?

Mr Smith: I'd need to take on notice whether we approached other suppliers. They would have certainly been off a panel, and the panel would have gone through a full value for money assessment, as panels do. But I will take on notice whether. But I will take on notice whether we went out for multiple quotes or just one quote, noting that the size of the procurement was \$50,000. Sometimes it's obviously not cost-effective to go out to multiple providers. But I'll take that on notice.

Senator RICE: Okay. If you could also take on notice a copy of the request for tender or other relevant documentation, when you received the response, when you signed a contract, what the deliverables were under that contract as well as a copy of what the deliveries actually were.

Mr Smith: Yes.

Senator RICE: Did I ask whether you had a cost benchmark for all of the projects within the Commuter Car Park Fund?

Mr Smith: Proponents are normally required as part of the process to submit, with a delivery proposal, a cost benchmarking ratio. If there are circumstances where they can't do that, we've got our own tool. So we've got a mix of proponents' BCRs and our BCR using the tool that was developed and signed off through SMEC.

Senator RICE: They're BCRs; I want the cost benchmarking.

Mr Smith: I'm sorry. Cost benchmarking is something that we've undertaken ourselves. Once we've done the feasibility study, and we know the number of car parks and the cost, we can undertake that ourselves. It's just mathematics. As part of that question on notice, we can provide you the ones that have gone through the feasibility side and are in delivery, because that gives you the accurate figures.

Mr Smith: Post BCR, BCR and benchmarking.

Senator RICE: So it's only those ones that have gone through that process that you've got a cost benchmark for?

Mr Smith: We can certainly—

Mr Atkinson: It's a BCR.

Mr Smith: I think she's also looking for benchmarking for community car parks.

Senator RICE: Yes.

Mr Smith: It can be misleading to do benchmarking ahead of actually finalising the feasibility study because you're not exactly sure of the cost or the full scope of car parks that can be delivered. So they would be rubbery figures at best, and we'd rather provide you with accurate figures.

Senator RICE: But can you do a BCR before then?

Mr Smith: No, you can do a BCR based on—again, that's why I said we'd do it for ones where we've gone into delivery mode, where we've completed the feasibility study and know what we're actually scoped for and delivering.

Senator RICE: Yes, that's what I would have thought. Basically, you can't do it until you've gone down the track of actually knowing what you were assessing, which is going to my initial comments. Part of the huge problem with this whole project is that the decisions are being made on a political basis and then you justify them afterwards.

I want to go to the whole objective of commuter car parks under the Urban Congestion Fund. What work has the department done to determine how and if funding car parks meets the objectives of the Urban Congestion Fund?

Mr Smith: I think Infrastructure Australia has undertaken some work that obviously indicates that it's really difficult for commuters to have access to public transport unless there are sufficient car parks and services around. What generally happens is that either people stay in their car or park on the streets, which adds to congestion. So there's evidence around that, which is public information on Infrastructure Australia's website. In dealing with looking at state car park programs, they've obviously got the same sort of philosophy around that to ensure that if you want to move people en masse, then you really need to provide suitable access as well as capacity on the railway lines.

Senator RICE: Am I hearing you saying that you haven't done any further work beyond what was in the Infrastructure Australia report?

Mr Smith: No, we haven't done any retail research lately. We're in the process of implementing government decisions on the car parks as they exist. But as part of that, you obviously read various things. Infrastructure Australia put out audit reports from time to time, and we look at those. They put out priority lists, and we look at those. In informing ourselves in the day-to-day operations of our work, we do undertake that sort of research. Have we put out a paper recently? No. The department also undertook numerous bits of modelling on congestion—whilst that was not car parks, it was around that research side of it.

Senator RICE: Absolutely. We have no doubt we have congestion. The question is whether car parks are an efficient way of tackling that congestion problem. I hear you—

Mr Atkinson: Senator, could I just add one thing?

CHAIR: Senator Rice, last question.

Senator RICE: What I hear you saying is that you were using that Infrastructure Australia report as your fundamental piece of research. Can I take you to that report. That was firstly about getting people onto public transport in outer suburban areas. Only 60 per cent of this fund is actually in outer suburban areas. They also had a range of other initiatives which they said should be invested in:

- Governments should ensure their existing networks are operating efficiently ...
- Public transport routes should operate as parts of coordinated, integrated networks. Coordinating public transport routes and modes can help improve service frequencies and the reach of the network.

- New modes, such as on-demand services, have the potential to improve access ...
- Encouraging people to transfer between services ...
- Public transport networks should be accessible by cars, active transport, car share and ride share.

They had a whole list of suggestions. Have you done any work comparing funding car parks compared with, say, investing in better frequency of bus services or investing in cycling routes? Have you done any of that work?

Mr Smith: Not to my knowledge. But I would say, obviously, if you look at the broader infrastructure investment pipeline, there's considerable money spent both within the Urban Congestion Fund but also, more importantly, outside Urban Congestion Fund aimed at tackling capacity around road and rail networks.

Mr Atkinson: Can I add that, whilst it's not in Mr Smith's division, as part of our work with the states through transport reform with the state ministers and my state colleagues, we actually do look at all of these issues. Car parks are a component of mode transfer to increase the amount of public transport uptake, which contributes into the system, but as you were saying, there are a whole series of other things that contribute to increased efficiency in the urban transport environment. We continue to work with our state colleagues on improving the efficiency of those across the board. They are all undertaking different approaches to that, as they do, but there are a lot of lessons learned, and everybody is pulling in the same direction in dealing with urban congestion.

Senator RICE: You've got a double level of dodginess, basically. You haven't assessed the efficiency of car parks to be improving urban congestion, and then, when you have chosen car parks, they've been chosen on a politically motivated set of criteria rather than on what the evidence says about how effective individual car parks could be at tackling congestion. That's absolutely appalling.

CHAIR: Senator Rice, that brings me to the end of your time. I've got a couple of questions for the department before we come to the end of our day. In the ANAO report, it is claimed that the car parks were focused in the south-east. Is this a reasonable assessment of the location of Commonwealth funded car parks, given that there are 10 car parks in the north and the west.

Mr Smith: You'd have to ask the ANAO questions about how it has depicted the information. Certainly, there are a number of car parks under the Urban Congestion Fund that are in the north, particularly on the northern lines. I think also what I would point to is that we have funded, as part of broader programs—I think some of those were cited as part of earlier evidence in the ANAO session—a number of car parks around the Geelong to Waurn Ponds areas.

CHAIR: Figure A.2 of the ANAO report shows that the Tullamarine Freeway is the most congested road in Melbourne during the morning peak and the second-most congested in the afternoon peak. How would the Melbourne Airport rail link help to ease congestion in Melbourne's north-west, particularly along the Tullamarine Freeway?

Mr Smith: The intention of the Melbourne Airport rail link is that it will connect from the airport to Sunshine and to the city. Victoria also consider it to be part of their suburban rail loop, so it will provide a bit of a network benefit. The work on the business case is going through that at the moment. It should provide an alternative transport mechanism. The modelling does still suggest that the Tullamarine Freeway is heavily congested, but the MARL will provide an alternative path.

CHAIR: Was this an Australian government or a Victorian government initiated commitment?

Mr Smith: The Australian government first announced a commitment of up to \$5 billion. Victoria subsequently endorsed that and has matched the funding.

CHAIR: How will the new intermodal terminal at either Beveridge or Truganina help to ease congestion in Melbourne's north and west?

Mr Atkinson: In short, it's not actually Mr Smith's responsibility for that, but in essence, it will transition the way that freight is moved in particular by the delivery of the intermodals, which will have a positive impact on urban congestion.

CHAIR: Who initiated that commitment? Was it the Australian government or the Victorian government?

Mr Hallinan: This one is probably a little bit complex. The Australian government has made public commitments in the budget on intermodals at either Truganina or Beveridge, but it's also part of Victoria's longer term freight plan as well. I suspect that there's quite a lot of communication between governments on it. I think the first commitment, though, was from the Australian government.

Mr Atkinson: But we will be definitely delivering it with the Victorians.

CHAIR: On the transport infrastructure investment requirements, you just touched on a freight-versus-commuter difference. So we have differences across our major urban areas between freight and commuters? Is that correct?

Mr Atkinson: Yes, I think that's safe to say. And there are different levels of existing infrastructure in any given part of urban systems in Australia.

CHAIR: So the ANAO has undertaken its own analysis of infrastructure needs by comparing congestion in Sydney and Melbourne along specific road corridors. Are there other measures that should have been considered—for example, public transport usage rates, population growth? Is the work that the ANAO has done on this audit report complete? Is it robust? I guess I'm asking for an opinion. Would you recommend that there would be additional information that should have been considered as part of that audit?

Mr Smith: I think the Audit Office answered some similar questions around that. I can give you a general view on network analysis. It's very complicated. It needs to ensure that you take account of population and infrastructure investment—not just the length of the road—the time, the congestion; there's a whole raft of factors that you would look at. There is the cost of that congestion as well. You could have a very congested road with one or two cars driving on it, compared to a very congested road with hundreds of thousands of cars. Obviously, from a cost point of view, you would need to focus on that. So you need to then look at what investment the Commonwealth is making and what investment the states are making. So it's a really complicated piece of work that you would have to undertake to come up with ideas and solutions across a broad network.

CHAIR: I guess the Department of Infrastructure has that kind of deep policy understanding, which is what we rely on you for, as opposed to other people coming and looking at your work. Do you do your own infrastructure investment reviews and post completion reviews?

Mr Smith: There's certainly a requirement for post completion reports. As we've outlined in the Audit Office, we have a standard process for evaluation and monitoring of those. I think the Audit Office thought we should tailor that a little bit more. So there is a process there that we can have a look at once projects have been completed and states have completed the necessary paperwork for us.

CHAIR: This is more out of personal interest. What's the fastest-growing city in Australia? Does that city have a congestion problem?

Mr Smith: I'd have to take that on notice. Pre-COVID, you had a number of cities that were growing very rapidly: Geelong, the Gold Coast and Sunshine Coast areas; Melbourne obviously was growing rapidly as well in certain sections. I would have to take on notice what is the fastest.

Mr Atkinson: And it depends on whether you're talking about gross terms or percentage terms as well. But, in essence, Sydney and Melbourne are growing very quickly, but so is South-East Queensland. Those three were certainly under congestion pressure pre-COVID, and still are.

CHAIR: I look forward to the fastest-growing area being somewhere in northern Australia soon.

Mr Atkinson: As a percentage, some of them might be.

CHAIR: Terrific. I might ask you about that at the next estimates.

Senator GALLAGHER: Chair, could I ask one question, which has just been circulated.

CHAIR: Yes.

Senator GALLAGHER: Thank you. On the Beaconsfield one, it says 'complete' at a cost of \$4.7 million. Is that right? That's the total completed cost of the project?

Mr Smith: That would be my understanding. Yes.

Senator GALLAGHER: So where it says the Australian government commitment was \$15 million, that just gets reallocated?

Mr Smith: That will be reallocated within the fund.

Senator GALLAGHER: Okay.

Mr Smith: Yes.

Senator GALLAGHER: So it wasn't required at that—

Mr Smith: Correct. So that would be deemed 'savings', and then that can be reallocated within—

Senator GALLAGHER: Okay. So there's about 38 or 39 that are now in the planning stages. Are they in various stages of planning—on feasibility?

Mr Smith: Yes, they would be. We've got I guess what are called broad categories. Some might be at the early stages of the feasibility versus the later stages of the feasibility study.

Senator GALLAGHER: And it looks like Commonwealth funding is 31—that's my counting of this table. A total cost of 31 being met by the Commonwealth. So, where you've got the split cost, does that mean that you have agreement from the relevant state or local council to part fund it?

Mr Smith: We'd need to look at the schedules but, for instance, there's a number in Victoria where the state has agreed to part fund as well. That's generally—

Senator GALLAGHER: Okay. But, for the purposes of this table, where it shows them being part funded—or shared funding—that agreement has been reached?

Mr Smith: I would need to check all of them. But that's pretty much generally the rule. Yes.

Senator GALLAGHER: Okay. Thank you.

CHAIR: Thank you. That concludes today's proceedings.

Committee adjourned at 14:00