



Australian Government

Department of Infrastructure, Transport,
Regional Development and Communications

Submission to the Joint Committee of Publics Accounts and Audit

October 2021

Introduction

The Department of Infrastructure, Transport, Regional Development and Communications is pleased to provide this submission to the Joint Committee of Public Accounts and Audit. The Department would be happy to provide further information on any aspect the Committee requests.

In June 2021, the Secretary of the Department provided a response to the Australian National Audit Office's (ANAO) proposed performance audit report on the administration of Commuter Car Park (CCP) projects within the Urban Congestion Fund (UCF). The ANAO made a number of recommendations that will strengthen the Department's administration of projects and management of the UCF. The Department has already put a number of improvements into place. The response outlined that although sound recommendations were made in the report, the Department disagreed with a number of conclusions within the report; in particular conclusions made in regard to the initial design, project selection and eligibility. The response outlines that the report did not provide balanced analysis of the Department's involvement in the selection process, or the fact that many commuter car park projects are considered by the Government as election commitments and announced during the election campaign.

The Department's response to the report further outlined that the Department disagrees with the finding that the Department's administration was not effective.

This submission provides a high level summary of the framework and function of the Department in administering the Infrastructure Investment Program, the history of the UCF and the CCP Fund as well as some of the actions the Department has undertaken since the audit.

The Infrastructure Investment Program

The Department has many functions that support the Australian Government's role in delivering important infrastructure projects, including the delivery of the Infrastructure Investment Program (IIP). The IIP is a \$110 billion 10 year rolling investment program designed to address current infrastructure requirements while also planning to ensure that future transport needs are met. The overall strategy seeks to manage growth in cities, invest in regions and build safe and connected communities while supporting the economy.

The pipeline approach recognises that major infrastructure projects take many years to plan, design and deliver. The Department works with states and territories, as well as undertakes research and analysis to

identify and deliver projects that align with Commonwealth priorities and take account for all inter-related factors impacting infrastructure needs. Investment decisions consider population growth, geographic density changes, growth and dispersion of employment, existing transport networks as well as existing and historical investments.

Infrastructure investment in Australia is a response to a series of complex inter-related challenges that consider the immediate infrastructure requirements of the nation while also planning to ensure that future transport needs are met. Investment decisions necessarily occur in the context of local and regional population growth and changes in geographic density, growth and geographic dispersion of employment opportunities, levels of service for existing transport networks, as well as existing and historical investments of the Commonwealth but more relevantly legacy spends of state and local governments.

An efficient land transport network underpins the Australian Government's key pillars set out in *Planning for Australia's Future Population* that tackles the impact of increasing populations in congested cities and backing smaller cities and regions that are looking to grow.

Projects selected for investment under the IIP are governed by the *National Land Transport Act 2014* (the Act), the Infrastructure Investment National Partnership Agreement (NPA) and Notes on Administration (NOA).

For the broader IIP, the Government makes decisions regarding project selection and how it wants to invest in land transport infrastructure projects. Transport infrastructure projects are a negotiated outcome made between the Australian and State/Territory Governments under the NPA.

The UCF and CCP as part of the IIP

The Urban Congestion Fund (UCF) is a program that sits within the IIP and is governed by the same legislative and administrative arrangements as the broader IIP.

These arrangements are well established and provide states and the Commonwealth with robust mechanisms to ensure the efficient administration of the program. As part of these governing frameworks, the Department provides necessary advice to the Minister as part of the Project assessment and approval process. Advice provided to the Minister is consistent with the Act and with authority provided by the Cabinet. Providing advice to the Minister on their authority to approve the project, eligibility of the project under section 10 and 11 of the Act and assessment of the proper use of funds under the *Public Governance, Performance and Accountability Act 2013* is a necessary part of the Departments approvals process.

The current NPA was entered into on 1 July 2019 by the Australian Government and State and Territory Governments to support the delivery of infrastructure projects. The NPA sets out how the Governments will work together to deliver projects administered under the Act.

Each state and territory has agreed to an individual schedule to the NPA which indicates Australian Government funding levels for land transport investments.

The NOA provides administrative guidance for managing projects with an Australian Government commitment, to be funded under the NPA such as:

- the process for consideration of approving design and delivery steps for committed Projects;
- administrative requirements relating to funding recipients;
- administrative requirements for project completion; and
- administrative requirements for public recognition, media and signage.

The development and delivery of the UCF and CCP is part of the Government's broad response to congestion and infrastructure challenges as a result of growth in Australia's major cities. The UCF is just one program

aimed at improving the lives of Australians and in tackling congestion. As such, it is important that investments are considered in the context of the broader 10 year rolling pipeline through the IIP.

In relation to urban congestion, individual cities face different circumstances across each of those areas. Within a city, regions will have diverse pressure points across different modes of transport, requiring different solutions and levels of investment. It is difficult to meaningfully compare the circumstances of different regions or cities, without understanding the legacy infrastructure, mode and history.

If projects within the UCF and CCP are reviewed in isolation, other road and rail investments, state and territory investments and possible future investments are ignored, failing to provide a fulsome picture of the investment pipeline.

The UCF represents a small percentage of the broader IIP, being \$4.8 billion (4.3 per cent) of the \$110 billion IIP pipeline. Further, across the broader IIP the investment in states currently represents the broad proportion of the state and territory population.

Fund Design and Project Selection

Projects funded under the broader IIP, and its precursor programs under previous Governments, are decisions of Government. They are typically negotiated outcomes between the Australian Government and state and territory governments and are not subject to competitive funding rounds.

The Department notes that Chapter Two (paragraphs 2.7) of the performance audit report outlines the initial steps taken by the Department to design a process for the selection of projects, including consideration of a non-competitive grants arrangement. The Department has previously adopted non-competitive processes, in combination with transport modelling and stakeholder consultation, as a means of project identification, with the prospectus for National Faster Rail being an example.

The audit report noted that in October 2018, the Australian Government agreed to governance arrangements for the UCF which included project identification by the Minister for Urban Infrastructure. The Australian Government, as outlined in the audit report, then identified and selected all the projects.

The Government agreed to projects under the UCF as follows:

- 39 projects in January 2019 (11 CCP announced);
- 44 projects on 10 April 2019 (27 CCP); and
- 7 CCP projects were announced during 2019 Election campaign.

Of the approved funding, \$625 million was allocated to CCP projects and \$3.12 billion was for non CCP UCF projects.

Once the Government's decisions were taken, the Department's role has been to work with implementation partners to identify feasible project locations, scope development and consider whether the project is within the scope of the agreed policy. The Department has been undertaking this role, and will continue to do so.

Following project announcement, post-election, the Department undertook extensive engagement with states and councils on implementing the Government's program and projects. This included extensive and ongoing engagements with all states to ensure projects were included in their project delivery schedules. Once agreed, states and councils would undertake the necessary planning, design and preparatory work to deliver the projects. This engagement continues in order to continue to progress the UCF and CCP.

Eligibility and Value for Money

The Department considers that there are well established mechanisms for management of projects under the Infrastructure Investment Program as set out in the governance requirements of the NLT Act. As part of the Department's administration of the Infrastructure Investment Program the Department has the administrative systems, templates and processes in place to support implementation of the UCF.

Consistent with its function in administering the IIP, the Department provides advice to the Minister that under the Act, and consistent with authority provided by Cabinet:

- The Minister has the authority to approve the project
- The project is eligible for approval under section 10 of the NLT Act
- The project is appropriate for approval under section 11 of the Act, and
- The expenditure would be a proper use of relevant money under the PGPA Act.

The Department has a sound understanding of eligibility of Projects under the Act, and with particular reference to the CCP projects, has sought extensive legal advice to support these assessments. Legal advice was first obtained prior to the commencement of the program and ongoing throughout as necessary, and it is clear that car parks are eligible under section 10(e) of the Act.

The Department seeks legal advice as required to ensure that projects proposed meet the eligibility requirements of the Act.

In its advice to Ministers to support decision making the Department includes a value for money assessment. While the Department does not agree with the premise of the report that the assessments are not adequate, it supports the ANAO principle of strengthening the advice including through the provision of information on benchmarking costs to industry standards. Further, the Department agrees with the overarching conclusion that efforts to standardise practices in our administration of infrastructure investment are warranted.

In this regard, the report recognises the work being undertaken within the Department to develop cost benchmarking, benefits measurement and supporting guidance for staff in the development of value for money assessments. This work will strengthen advice to portfolio Ministers as projects progress through the approval process to the commencement of construction.

The Department notes however, that benchmarking is only one aspect of any value for money assessment and is general in nature as industry standards fail to take into account site specific cost.

The report recognised the development by the Department of a benefits cost estimation tool for commuter car parks, which has now been independently assessed and is consistent with the Australian Transport and Assessment Guidelines. The benefits cost estimation tool overall demonstrates the significant benefits to be captured through transitioning commuters to modes of public transport.

There is continuing work being undertaken within the Department to develop cost benchmarking, benefits measurements and supporting guidance for staff in the development of value for money assessments.

Improvements to administration

The Department established the Governance, Assurance, Performance and Reporting (GAPR) Committee in December 2020 to strengthen the administration of the IIP.

The committee aims to increase performance and accountability in managing the IIP, improve transparency on policy, procedures, guidance and support for staff members and ensure greater consistency in the way the IID approaches project delivery. This includes development and implementation of a staff Induction and Training Package to ensure all staff involved in the management of funding under the IIP are fully aware of their obligations under the NPA and NOA.

The GAPR Committee also undertakes oversight of training and compliance for all staff in relation to records management, and compliance with records management protocols. This includes mandatory records management training for all existing and new staff to the Division, as well as refresher training where a need is identified through the performance management cycle, or by the Committee where there may be areas of concern emerging across the Division. IID has already undertaken records management training and a number of other steps have been implemented to ensure compliance with the Departments record keeping policy.

Caretaker conventions

On 11 April 2019 the Government went into the caretaker period. The Australian Government, as outlined in the audit report, committed investment to 27 commuter carpark sites the day before the caretaker period commenced. Investment in these projects was included in the Pre-election Economic and Fiscal Outlook.

An additional 7 CCP projects were announced as part of the election campaign. The audit report notes that authority to progress these projects was confirmed by the Prime Minister following the election with funding included in the 2019-20 Mid-Year Economic and Fiscal Outlook.

The Department at all times adhered to the caretaker conventions.

Post caretaker, the Department engaged with states and councils on implementing the Government's program and projects in the normal course of business. This included extensive and ongoing engagement with the states to ensure projects were included in their delivery schedules.

ANAO Recommendations and Departmental Response

The ANAO made six recommendations to the Department that will strengthen the Department's approach to administration of the Urban Congestion Fund. The Department's initial response was that while the audit made these recommendations, the Department disagreed with a number of conclusions and findings in the report. The Department does not agree that the Department's administration was not effective in relation to the initial design and project selection, as well as the findings in relation to eligibility.

The Department's response to the recommendations is reproduced below.

Recommendation 1

When establishing funding programs for inclusion in the Infrastructure Investment Program, the Department develop an implementation plan, performance indicators and an evaluation strategy specific to the funding program.

Response

Agreed. The Department will consider the elements of the new program streams and develop an implementation plan, performance indicators and/or evaluation strategy specific to the new program where existing tools and practices are not appropriate.

Recommendation 2

The Department's improvements to Infrastructure Investment Program record keeping include ensuring good quality business information that is fit for purpose is created, which means that it:

- contains sufficient detail to meet current business needs and can be understood by others in the future;
- is accurate; and
- is created in a format that enables efficient business processes and maximises its potential for use and reuse.

Response

Agreed. The Department is already undertaking action including the following actions within the Infrastructure Investment Division:

- Reminders to all staff within the IID have been issued with a direction to adhere to requirements in relation to record keeping;
- Provision of recordkeeping training sessions specifically for IID staff, with the intent that every officer will be required to undertake training. Specific training sessions held for the Division to ensure staff had the requisite skills to comply with their obligations was delivered to 132 staff.
- Anyone that did not attend a training session through the Department's LearnHub. Attendance is also included as part of the Induction Checklist which is monitored by the Business Management Unit.
- Incorporated adherence to recordkeeping policies in performance discussions for SES officers.
- The Business Management Unit prepares monthly 'heat maps' that indicate utilization of the Departments EDRMS
- Monitoring of use of areas of G Drive that have not been closed to new records to ensure compliance with use of the EDRMS.

At a Departmental level, actions undertaken include:

- Reviewing the existing Record Keeping policies and drafting a single policy document which is currently under review before being endorsed and published;
- Increasing delivery of department-wide training to ensure staff understand their obligations;
- Initiating a project to upgrade and consolidate the Department's record management systems; and
- Updating staff guidance on the Department's intranet relating to records management practices.

Recommendation 3

The Department document and apply assessment procedures that require it to undertake sufficient inquiries to demonstrate that candidates for funding under the National Land Transport Act 2014 are eligible for approval before it makes a funding recommendation to the Minister

Response

Agreed. The Department has established processes in place to assess project eligibility under the Act or to provide policy and/or legal advice in more complex scenarios. The Department had a sound understanding, informed by legal advice, of the eligibility of commuter carpark projects under the *National Land Transport Act 2014*. The Department is improving its documentation of guidance materials to support effective and appropriate management of the Urban Congestion Fund within the broader IIP.

Recommendation 4

In designing programs for the delivery of funding through the National Land Transport Act 2014, the Department propose for Ministerial consideration merit criteria that will be used to assess whether projects represent an efficient, effective, economical and ethical use of public money.

Response

Agreed. The Department considers the mechanisms and governance requirements of the NLT Act and existing IIP processes are sufficient for program management in many circumstances and particularly apply to projects under the UCF.

Noting the process undertaken by Government to select commuter car park projects, the Department agrees that it can strengthen guidance material to staff to assess the value for money considerations and criteria outlined in the NLT Act and PGPA Act.

When establishing new funding programs for inclusion in the IIP, the Department will consider the elements of the new program streams and, where existing tools and practices are not appropriate, develop program-specific plans and performance measures, including merit criteria.

Recommendation 5

When providing advice on whether funding should be approved for funding candidates under the National Land Transport Act 2014 that have been identified through a non-competitive process, the Department identify relevant benchmarks against which to assess whether the proposal represents value for money and is appropriate for approval.

Response

Agreed. The Department agrees with the principle that advice to the Minister should provide enough detail to ensure that the Minister can meet obligations under the PGPA Act. This may include, where relevant, appropriate benchmarking information as well as other quantitative or qualitative information. The Department briefing on projects includes an assessment of the effective, ethical, efficient and economical merits as required under the PGPA Act. Work is currently being undertaken to strengthen advice provided to Ministers on projects as they enter into the delivery stages. In relation to commuter carpark projects, the Department has used industry data to develop benchmark construction costs to help guide staff in the assessment of commuter carpark proposals. Industry benchmarks for carpark projects do not consider many of the site-specific and environmental factors that contribute to the complexity of the project and overall cost but do help to identify these issues to support the Minister in making a decision.

Other calculations, such as a benefit cost ratio calculation may be more relevant as a guide for Ministers, particularly in circumstances where site specific cost factors may mean a benchmark comparison is not helpful.

The Department already has a process in place for cost assurance for road projects, through cost estimate reviews and cost benefit analysis. This function is being further developed in order to provide additional guidance and support for staff in the assessment of significant projects.

Recommendation 6

The Department strengthen its controls over the establishment of delivery and payment milestones, including by setting out in the Ministerial approval briefing the department's proposed milestones or the parameters for negotiating those milestones.

Response

Agreed. The Department agrees that including advice to Ministers on milestones will provide additional assurance to Government regarding administration of the program. The Department is developing additional guidance in relation to developing and setting milestones, noting milestones are only one governance mechanism; others include regular meetings with delivery partners and regular reporting.