



Auditor-General for Australia



13 July 2017

Senator Chris Ketter  
Chair  
Senate Economics Reference Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Senator

**Inquiry into the operations of existing and proposed toll roads in Australia**

The Australian National Audit Office (ANAO) published the following performance audit reports that you may find relevant to the Senate Economics Reference Committee inquiry into the operations of existing and proposed toll roads in Australia:

- Report No. 38 of 2016–17, *The Approval and Administration of Commonwealth Funding for the WestConnex Project*.
- Report No. 14 of 2015–16, *Approval and Administration of Commonwealth Funding for the East West Link Project*.

Information about what the audits assessed, concluded and recommended is attached. The audit reports are available online at [www.anao.gov.au](http://www.anao.gov.au).

Should the Committee require further information in relation to these matters, my office would be pleased to provide you with a briefing at a time convenient to you or appear as a witness at a hearing. To arrange a briefing, please contact our External Relations area at

Yours sincerely

Grant Hehir  
Auditor-General

Report No. 38 of 2016–17, *The Approval and Administration of Commonwealth Funding for the WestConnex Project* assessed whether appropriate steps were taken to protect the Australian Government's interests and obtain value for money in respect to the \$3.5 billion in funding committed for the WestConnex project.

The audit concluded that the Department of Infrastructure and Regional Development took a number of steps to protect the Australian Government's financial interests, particularly in relation to the risk of the concessional loan not being repaid. The upfront payment and approach to agreeing and adjusting milestones for later payments did not adequately protect the Australian Government's financial interests. Additionally, the provision of the concessional loan did not achieve the Australian Government's objective of bringing Stage 2 of the project forward by approximately two years. The WestConnex project had not proceeded fully through the established processes to assess the merits of nationally significant infrastructure investments prior to Australian Government funding being committed. This situation was identified in departmental advice to decision makers prior to decisions being taken. Funds have been paid in advance of project needs. Advice provided prior to the first payment (of \$500 million in June 2014) identified that a payment of that magnitude was not yet required. The ANAO estimates that as of November 2016, the total cost of amounts provided in excess of project needs since June 2014 has been approximately \$20 million. The May 2014 decision to make the \$500 million advance payment led to the project being approved without there being any documented analysis and advice to Ministers that the statutory criteria for giving such approvals had been met. Advice seeking the necessary approval for later payments (of \$250 million in June 2015, \$450 million in June 2016 and \$300 million in November 2016) addressed those criteria. But those three milestone payments were designed and administered in a way that did not adequately protect the Australian Government's financial interests. This was because, in order not to delay payments, milestones were agreed to after the respective event had already occurred or amended shortly before the payment was due to be made where NSW had not met the milestone. Departmental advice to Ministers focused on the benefits of providing a concessional loan to the WestConnex project. The key benefits identified were the:

- lower net financial impact on the presentation of the Federal Budget of a loan compared with further grant funding (due to the differences in the accounting treatment of loans and grants, and because a loan would earn interest income and be later repaid);
- increased construction activities between 2015–16 and 2016–17 from accelerating the second stage; and
- potential to reinvigorate the private sector lending market in relation to demand risk toll roads.

But the advice to Ministers did not adequately identify or quantify the costs and risks associated with providing a concessional loan. Key issues that detract from the loan providing value for money include:

- there is evidence that the loan was not needed to accelerate the second stage of WestConnex and, in any event, the project has not been accelerated to the extent projected by DIRD (by up to two years); and

- the interest rate on the loan was set well below comparable market rates with no margin included to cover the Australian Government's loan administration costs or risks.

The ANAO recommended that the Department of Infrastructure and Regional Development improve the advice on any future loans for major infrastructure projects by developing a robust administrative framework, identifying and quantifying the impact of key aspects of the proposed commercial arrangements, and providing Ministers a range of options on the key terms for agreement.

Report No. 14 of 2015–16, *Approval and Administration of Commonwealth Funding for the East West Link Project* assessed whether appropriate steps were taken to protect the Commonwealth's interests and obtain value for money in respect to the approval of \$3 billion in Commonwealth funding, and the June 2014 payment of \$1.5 billion of that funding.

The audit concluded that neither stage of the East West Link project had proceeded fully through the processes that have been established to assess the merits of nationally significant infrastructure investments prior to the decisions by Government to approve \$3 billion in Commonwealth funding and to pay \$1.5 billion of that funding in 2013–14. This situation had been identified in departmental advice prior to the decisions being taken. The Department of Infrastructure and Regional Development (DIRD) provided clear advice to Government that the \$1.5 billion was being paid in advance of project needs, and proposed an alternative payment approach that aligned payments with project progress. The decision to provide \$1.5 billion in advance provided budget presentation benefits to the Government by bringing forward the payments which resulted in a larger budget deficit for 2013–14. None of the \$1.5 billion in advance payments had been spent by Victoria prior to the cancellation of the East West Link project. Interest earned on the advance payments to the end of October 2015 is estimated to have been more than \$49 million. DIRD also provided timely advice to Ministers when it became evident that there was an increased risk that stage one may not proceed. This advice resulted in better management of the risks associated with the \$500 million advance payment for that stage being used for project cancellation costs. No such action was able to be taken in respect to the \$1 billion advance payment made for stage two. This was because it was not possible to clearly specify the project scope in the approval documentation because significant project development work still needed to be undertaken in order for a business case to be prepared. The non-legally binding nature of the agreements signed with the Victorian Government meant the Commonwealth was unable to rely on those documents to require the advance payments to be returned when the project was cancelled. In September 2015, the Department of the Treasury obtained legal advice on how Victoria could be required under the federal financial relations framework to repay the \$1.5 billion in advance payments. The advance payments had not, as of October 2015, been recovered from Victoria.

The ANAO has not made any recommendations in relation to entity advisory processes given the audit found that the funding decisions had been informed by well-considered departmental advice, and that Infrastructure Australia's assessment processes had been bypassed. The ANAO has made one recommendation to the Department of the Treasury for it to commence action under the federal financial relations framework to recover the advance payments from Victoria.