

Joint Committee of Public Accounts and Audit Answer to Questions on Notice

Department/Agency: Australian National Audit Office

Inquiry: Commonwealth investments to achieve policy objectives

Date of hearing: 3 December 2021

Type of question: Additional questions

Date set by the committee for the return of answer: 23 December 2021

Number of pages: 6

Project selection—decision making

In its submission, the Department of Infrastructure noted that:

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. [Department of Infrastructure, *Submission*, p. 3.]

The agreed governance arrangements for the UCF ‘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.’ [Department of Infrastructure, *Submission*, p. 3.]

The 2019–20 Schedules to the National Partnership Agreement documented the Australian Government’s commitment of \$625 million towards 44 UCF projects, which involved the upgrading of 47 identified commuter car park sites:

For 38 of the sites selected (81 per cent), the government’s decision was effected through the written agreement of the Prime Minister to written requests from, or in consultation with, the Minister for Finance, the Treasurer, the Deputy Prime Minister and the Minister for Urban Infrastructure. The written agreements provided the authority to commit funding to projects that had been selected via consultations between the Minister for Urban Infrastructure, the Deputy Prime Minister and the Prime Minister and/or their offices. [Audit, p. 39.]

Questions:

What do you understand by the concept of project selection processes being ‘decisions of Government’?

Does being a ‘decision of Government’ circumvent due process under relevant legislation or accountability for selection and funding decisions?

Answer:

The ANAO’s understanding of the approval process for projects selected under the Infrastructure Investment Program was set out in the audit report as follows:

- there was a clear policy objective for the Urban Congestion Fund (UCF) and for its commuter car park component (paragraphs 2.2 and 2.3);
- the UCF was established as a sub program of the Infrastructure Investment Program with the UCF projects to be funded as 'Investment Projects' under Part 3 of the *National Land Transport Act 2014* (NLT Act) (paragraph 1.7);
- projects funded under the NLT Act are governed by the National Partnership Agreement on Land Transport Infrastructure Projects (paragraph 1.8);
- the UCF was to be administered through the existing framework of the Infrastructure Investment Program (paragraph 2.4);
- the process for allocating funding via sub-programs established under the Infrastructure Investment Program is not specified in the legislative or administrative arrangements. Different processes have been adopted for different sub-programs, including allocating funding via a competitive, merit-based selection process (paragraph 2.6);
- the process adopted was set out in agreed governance arrangements specific to the UCF, which provided a framework for identifying projects and determining priorities for funding. These arrangements included that projects would be identified and selected by the Australian Government using a non-competitive and non-application based process, taking into account five UCF principles (paragraphs 2.7 to 2.9 and 3.32); and
- the department did not develop a plan for implementing the UCF governance arrangements, including for how the UCF principles would be applied to commuter car park projects. It also did not develop a plan identifying the avenues through which UCF projects could be identified (paragraphs 2.10 to 2.18).

The audit report sets out that the selection of 47 commuter car park sites for funding commitment were decisions of government taken over the period January to July 2019 (see paragraphs 3.5 to 3.11 including Table 3.1).

Except where the commitment to a UCF project does not include the Australian Government making a financial contribution to that project,¹ as set out at paragraphs 4.1, 4.2 and 4.34 of the audit report, the decisions taken by government to select projects for funding commitment and inclusion in the Schedules to the National Partnership Agreement did not remove the need for statutory approval processes under:

- Part 3 of the NLT Act. The NLT requires that projects be eligible for approval (in accordance with section 10) and appropriate to be approved (in accordance with section 11); and
- section 71 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which states that '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 use of relevant money'. The PGPA Act defines 'proper' as efficient, effective, economical and ethical.

¹ An example is the commuter car park project at Craigieburn, which was a UCF project fully funded by the Victorian Government (see paragraphs 3.30, 3.69 and 4.8 and Table 5.3).

The Minister may approve through the above processes funding up to the limit of the Australian Government's commitment to each project (paragraph 4.3). The audit report outlined at paragraphs 4.7 to 4.12 that, at the time audit work was completed on 31 March 2021:

- assessment work under the NLT and PGPA Acts had been completed for 10 car parks resulting in \$100 million of Australian Government funding being approved for the full project (including delivery of construction work);
- for a further 23 projects, the department had assessed proposals for the funding of scoping/development work with \$22 million in funding approved under the NLT and PGPA Acts (representing seven per cent of the total Australian Government funding committed for those projects); and
- further assessment work (and consideration of statutory approvals) was required in relation to:
 - whether the remaining \$278 million in Australian Government funding should be awarded to deliver those 23 projects for which scoping/development work has been approved; and
 - the remaining 11 projects with an aggregate commitment of \$175 million.

Merit selection

With regard to establishing project eligibility, the audit recommended that 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'. [Audit, p. 70.]

With regard to identifying the merits of individual projects, the Auditor-General found that the merits of projects had 'not been appropriately assessed by the department to inform its recommendations to the Minister'. Furthermore, 'the design of the UCF did not include the development and Ministerial approval of merit assessment criteria' despite there being 'no legislative requirement or impediment to having merit assessment criteria'. The audit observed that it was common for the assessments that had been completed to not:

- identify the number of additional parking spaces that would result from the project;
- compare the cost of each additional car park to a relevant benchmark; and/or
- identify that there is a sufficiently high net economic benefit from the project. [Audit, p. 71.]

The audit recommended that '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'. [Audit, p. 72.]

The Department of Infrastructure agreed to the recommendation, noting however:

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. [Audit, p. 72.]

The audit also recommended that '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'. [Audit, p. 79.]

Questions:

The audit criticised the Department of the lack of merit criteria and recommended the application of merit criteria and benchmarking to the Commuter Car Park program. How would these aid clarity and accountability in decision making?

The audit criticised the process of assessing project funding eligibility under the National Land Transport Act. How could the assessment process have been improved?

Answer:

As outlined at paragraphs 4.35, 4.36 and 4.42 in the audit report, merit criteria:

- indicate the characteristics of project proposals that will successfully contribute to achieving the specified policy objective for a program;
- provide a transparent and consistent basis for assessing whether candidate projects represent an efficient, effective, economical and ethical use of public money (as required by the PGPA Act) and it is appropriate to approve the project (as required by the NLT Act); and
- have been used in another program delivered under the NLT Act audited by the ANAO (the Bridges Renewal Program, Auditor-General Report 17 2015–16).

Paragraphs 4.45 to 4.48 in the audit report discusses benchmarking, including that:

- effective benchmarking enables an informed assessment of value for money in non-competitive selection processes;
- in June 2020, the Minister requested that cost benchmarking be undertaken; and
- while a consultancy report was obtained by the department, with one exception the department had not used the results of the benchmarking work to inform Ministerial consideration of whether Australian Government funding should be awarded to either scope or deliver car park projects.

Recommendation No.3 related to improving the department's approach to assessing project eligibility. The recommendation agreed to by the department was that it document and apply assessment procedures that require it to undertake sufficient inquiries to demonstrate that candidates for funding under the NLT Act are eligible for approval before it makes a funding recommendation to the Minister. The recommendation reflects the audit findings outlined at paragraphs 4.13 to 4.30 including that the department's assessment guidelines did not address how it would assess eligibility, and eligibility was not addressed in the department's project assessment reports.

Records management

Examining how the records for the design and delivery of the UCF were managed, the Auditor-General found that the majority of the records 'were not being appropriately managed within a records management system'. [Audit, p. 32.] It observed that:

- The majority of the records relating to the UCF were not created and/or maintained within the Electronic Document and Records Management System (EDRMS).
- There were also occasions where UCF records were being maintained in officer email accounts instead of being saved to the EDRMS. [Audit, p. 33.]

The audit recommended that the Department ensure the creation of good quality business information that is fit for purpose, including 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. [Audit, p. 37.]

The Department of Infrastructure agreed to the recommendation, noting that it had already undertaking action within the Infrastructure Investment Division. [Audit, p. 37.]

Questions:

The audit uncovered deficiencies around the Department's record keeping on the Urban Congestion Fund. What were the implications of poor record keeping with regard to the Urban Congestion Fund and the Commuter Car Park Program?

Do you believe that the remedial actions undertaken/foreshadowed by the Department will lead to better outcomes?

Answer:

The audit findings in relation to record keeping and the ANAO's assessment of the remedial actions undertaken/foreshadowed by the department are discussed in paragraphs 2.51 to 2.72:

- the audit found that 'The majority of the records of the design and delivery of the Fund were not being appropriately managed within a records management system.' This situation made it more difficult for the auditors to be satisfied that there were complete and accurate records of the design of the UCF, project identification and selection, and the approval of funding under the relevant legislation. More broadly, and although not discussed in the audit report, having good records assists entities to be accountable to the Parliament and comply with administrative review obligations, as well as assisting to inform future policy development work through the ability to analyse what worked well as well as where there are opportunities for improved approaches;
- the audit report recognised that, in response to record keeping issues raised by the ANAO, in late 2020 the department initiated actions to address non-compliance with departmental and Australian Government record keeping policies. The department was also in the final stages of replacing its existing IT system for administering the Infrastructure Investment Program, which it expects will improve data management; and

- while the initiatives the department had in train at the time of the audit were recognised to have the potential to improve the manner in which Infrastructure Investment Program records are kept and data is managed, it was less clear that they will resolve some shortcomings in the making of records. To ensure the department's initiatives also improve how records are made, the ANAO made an audit recommendation about record keeping. The recommendation reflects Principle 2 'Necessary business information is created' of the *Information Management Standard for Australian Government*. The Information Management Standard, and guidance on how to implement each of its eight principles, is available from the National Archives of Australia website at <https://www.naa.gov.au/>.