

Chapter 2

Problems with program conception, funding and design

2.1 This chapter sets out the stated aims of the BER and then considers a range of issues that were highlighted during the inquiry concerning:

- (a) how the P21 program was costed;
- (b) how the funding was delivered through the federal financial relations framework; and
- (c) how the implementation guidelines for the program were designed.

Aims of the BER

2.2 The primary aim of the BER, as stated by the Department of Education, Employment and Workplace Relations (DEEWR) in its submission to the inquiry, is to 'provide economic stimulus to national and local economies through the rapid construction and refurbishment of school infrastructure'.¹ A secondary aim is 'to build learning environments to help children, families and communities participate in activities that will support achievement, develop learning potential and bring communities together'.²

2.3 The BER is the largest component of the Council of Australian Governments' (COAG) Nation Building and Jobs Plan announced on 3 February 2009.³ According to COAG, the primary objective of this plan was to apply timely stimulation to the economy in response to the global financial crisis, by focusing on nation building and supporting economic growth and jobs.⁴

2.4 The plan parameters were agreed on 5 February 2009 and detailed in the National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity for the Future and Supporting Jobs Now (the National Partnership Agreement).⁵

2.5 The committee majority notes that the legislation required to enact the Nation Building and Jobs Stimulus Plan, introduced into the House of Representatives on 4 February 2009 as a package of six related bills, was initially rejected by the Senate

1 Department of Education, Employment and Workplace Relations, *Submission 22*, p. 3.

2 Department of Education, Employment and Workplace Relations, *Submission 22*, p. 3.

3 Department of Education, Employment and Workplace Relations, *Submission 22*, p. 3.

4 *National Partnership Agreement on the Nation Building and Jobs Plan*, p.3, available at http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_nation_building_jobs.pdf (accessed on 11 June 2010).

5 Department of Education, Employment and Workplace Relations, *Submission 22*, p. 5.

on 12 February 2009.⁶ Following amendments and reintroduction into the House of Representatives on 12 February 2009, the Senate passed the bills on 13 February 2009.⁷ The committee majority further notes that the bills did not have the support of the Coalition in either chamber.⁸

2.6 The Coalition's concerns with the government's package were reflected in the Coalition senators' dissenting report to the Senate Finance and Public Administration Committee's February 2009 inquiry into the package. These concerns included that:

- the package would not achieve the objectives the government claims;
- was poorly thought through;
- was a poor quality use of \$42 billion of taxpayers' money; and
- lacked ingredients that should be part of packages of this kind, being measures to increase employment, productivity, efficiency and competitiveness.

2.7 Evidence presented to the committee during this inquiry to date confirms many of these concerns.

Has the BER as a stimulus package met its objectives?

How many jobs has the BER created?

2.8 Given support for economic growth and jobs was a key objective identified in the National Partnership Agreement,⁹ the committee sought definitive information concerning the extent that the BER, as a stimulus package, and in particular the P21 program, had achieved this key jobs objective.

2.9 Ms Lisa Paul, Secretary, DEEWR, gave evidence to the committee of a Treasury estimate on the overall number of jobs supported under the stimulus package:

Treasury has estimated that the overall impact of the economic stimulus plan, of which the BER is the single largest element, is support for 200,000

6 *Journals of the Senate*, No. 59, 12 February 2009, pp 1608-1609.

7 *Journals of the Senate*, No. 59, 13 February 2009, p. 1620.

8 See *Votes and Proceedings*, No. 71, 4 and 5 February 2009, pp. 831-838; *Journals of the Senate*, No. 59, 12 February 2009, pp 1608-1609; *Votes and Proceedings*, No. 76, 12 February 2009, pp. 871 – 876; and *Journals of the Senate*, No. 59, 13 February 2009, p. 1620.

9 *National Partnership Agreement on the Nation Building and Jobs Plan*, p.3, available at http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_nation_building_jobs.pdf (accessed on 11 June 2010).

jobs - that is, 200,000 Australians avoided unemployment because of the stimulus.¹⁰

2.10 Ms Paul's evidence did not address the committee's specific question in relation to how many jobs have been supported and created under the P21 program.

2.11 When pressed about the effectiveness of the P21 program in terms of job creation, Ms Gillian Mitchell, Branch Manager, DEEWR, gave evidence that under the P21 program 'there is no specific target':

Senator BARNETT—And what about jobs?

Dr Bruniges—They are not in the funding agreements.

Ms Mitchell—Jobs are being measured at the level of the entire economic stimulus plan.

Senator BARNETT—Yes, I am aware of that. We are talking about this particular program, P21.

Ms Mitchell—There is no specific target.¹¹

2.12 When further questioned as to what the key performance indicators are for the P21 program if they are not job creation and support, DEEWR indicated that 'number of projects is a key indicator'.¹²

2.13 Ms Paul gave evidence to the committee that the National Partnership Agreement contains a single performance indicator:

I note that the single performance indicator in relation to the P21 element of the BER contained in the *National partnership agreement on the Nation Building and Jobs Plan* is the number of new or refurbished facilities, including libraries and multipurpose halls in primary schools.¹³

2.14 The committee asked the Australian National Audit Office (ANAO) whether it had been able to determine the number of jobs created under the P21 program when conducting its own performance audit of the P21 program.¹⁴ The ANAO gave evidence that, due to the way in which data on the program has been collected, it is not possible to quantify the number of jobs directly supported or created. The ANAO also stated that Treasury did not have a role in reporting on sub-elements of the overall stimulus package of which the P21 program is an element. The ANAO's evidence was:

10 Ms Lisa Paul, DEEWR, *Proof Committee Hansard*, 19 May 2010, p. 108.

11 *Committee Hansard*, 30 November 2009, p. 17.

12 Dr Michele Bruniges, DEEWR, *Committee Hansard*, 30 November 2009, p. 16.

13 Ms Lisa Paul, DEEWR, *Proof Committee Hansard*, 19 May 2010, p. 108.

14 Australian National Audit Office, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33, 2009-10.

...As you would have been advised previously by the department, it has been unable to date to collect information on the number of jobs created by the program since its inception. There are a couple of points to note. The role of the Department of the Treasury is significant here. It has a role in overseeing and monitoring the impact of the stimulus package as a whole, including jobs created or supported; however, it does not have a role in reporting on sub elements of that overall stimulus package of which BER and BER P21 are elements.

The second thing is that the department has been gathering jobs information but it is at the project or site level. That information has...some caveats and uncertainties around it. The education authorities raised with us a number of concerns about the reliability and comparability of the information that was being gathered and the usefulness of it, too.¹⁵

Committee view

2.15 Given that the primary objective of the BER (as set out by COAG) was to apply timely stimulation to the economy in response to the global financial crisis by focusing on nation building and supporting economic growth and jobs, the government was under an obligation to ensure that adequate mechanisms were established to enable the number of jobs created by the P21 program to be calculated accurately, so that the success or otherwise of the program could be properly assessed, according to one of its two key indicators, by the parliament and the taxpayers.

2.16 It is an indictment on the government and DEEWR that there is no effective mechanism to enable the accurate calculation of the key criteria of the P21 program as set out in the National Partnership Agreement on the National Building and Jobs Plan, being 'support for economic growth and jobs'.

2.17 The committee majority is concerned that the National Partnership Agreement failed to include appropriate indicators to determine whether or not its key objective was met.

2.18 The committee majority notes that the ANAO in its performance audit report states that 'there would be scope for DEEWR and ultimately the Coordinator General to have considered alternative options to obtain data that would facilitate reporting against program measures and outcomes for the BER program'.¹⁶

2.19 On the evidence presented to the committee, regrettably, it appears that no other alternatives were considered. The ANAO in its report further expressed its concern by stating:

where it is not possible to identify alternative options that yields valid data at the program level, it would have been prudent for DEEWR, in

15 Dr Thomas Clarke, ANAO, *Proof Committee Hansard*, 19 May 2010, p. 99.

16 Australian National Audit Office, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33, 2009-10, p. 139.

consultation with the Coordinator General, to advise Government accordingly.¹⁷

2.20 The committee majority observes that projects do not equal jobs. On the evidence presented to the committee, the government has spent in excess of \$14 billion of taxpayers' money without establishing adequate mechanisms to properly quantify the number of jobs created under the P21 program. Statistical data relating to building projects is not an accurate measure of actual job creation.

2.21 With in excess of \$14 billion of Australian taxpayers' money being spent on the P21 program, the committee majority believes that Australian taxpayers are entitled to more accountability from the government.

Questions over timeliness of the implementation of P21 projects

2.22 As noted, the primary aim of the BER is to 'provide economic stimulus to national and local economies through the rapid construction and refurbishment of school infrastructure'.¹⁸

2.23 Evidence was given to the committee that raised concerns regarding the timeliness of the implementation of P21 projects. The question of timeliness is a critical element in determining whether the P21 program is meeting its primary aim.

2.24 The ANAO reported that the progress of some P21 projects has been slow:

The original government decision, and subsequent BER Guidelines, also established completion milestones for BER P21 projects, according to school size. Up to 18 months was allowed for the completion of projects in schools larger than 150 students, with seven months allowed for the completion of projects in smaller schools with 150 students or less. Eligibility for BER P21 funding was conditional on schools meeting agreed commencement and completion milestones for building works. While the majority of milestones for project completion are yet to be reached, smaller schools in Rounds 1 and 2 of BER P21 were required to have completed their projects by 20 January 2010 (452 projects) and 28 February 2010 (1630 projects) respectively. DEEWR has advised that only 15 per cent of Round 1 projects (68 projects) and 8 per cent of Round 3 projects (131 projects) in smaller schools have been completed by the respective milestones set by the Government. Education Authorities have been able to seek extensions to the completion dates for BER P21 projects on a case-by-case basis. DEEWR has advised that 250 Round 1 projects (55 per cent) and 260 Round 2 projects (16 per cent) have had an extension to their completion milestones approved. This means that 34 per cent of Round 1

17 Australian National Audit Office, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33, 2009-10, p. 139.

18 Department of Education, Employment and Workplace Relations, *Submission 22*, p. 3.

projects and 9.6 per cent of Round 2 projects have been completed in accordance with revised milestones.¹⁹

2.25 DEEWR has also recently confirmed that large numbers of P21 projects remain behind schedule:

Senator MASON—The round 1 date of completion was 20 January this year. Round 2 is 28 February this year. Round 3 is 31 May this year. They all should have been completed. How many have been?

Ms Mitchell—I will have to add this up. In round 1 there are 69.

Senator MASON—Would you like my calculator?

Ms Mitchell—I do need your calculator. I have this in three separate amounts. It is 69 plus 104 plus 34, which comes to 207 in total.

Senator MASON—207?

Ms Mitchell—From round 1.

Senator MASON—Out of how many?

Ms Mitchell—Out of 453.

Senator MASON—That is for round 1?

Ms Mitchell—That is correct.

Senator MASON—So less than half are completed?

Ms Mitchell—For round 2, some 361 projects have completed.

Senator MASON—Out of how many?

Ms Mitchell—Out of 1,634.

Senator MASON—That is about one-fifth. That is not very good. That is about 20 per cent. And I do not even need my calculator. That is round 2. A failure mark there, but I am generous. How about round 3?

Ms Mitchell—For round 3, some 55 projects have completed.

Senator MASON—Out of how many?

Ms Mitchell—Out of 1,348. However, I would like to note that the completion date for round 3 was 31 May and we will not receive the data on round 3 until 21 June.²⁰

Committee view

2.26 Given the extent of the many P21 projects that remain behind schedule and that have not been completed in accordance with the project completion dates, it is

19 Australian National Audit Office, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33, 2009-10, pp 15-16.

20 Department of Education, Employment and Workplace Relations, *Estimates Hansard*, 3 June 2010, pp EEWR89-90.

implausible for the government to justify its claims that the stimulus spending was timely.

2.27 Furthermore, the committee majority is concerned that the non-timely spending of the stimulus money is now leading to an overstimulation of the economy, well after the worst of the global financial crisis has passed.

Flaws in P21 program costings - \$1.7 billion cost blow-out

2.28 In February 2009 when the P21 elements of the BER were announced, the government claimed the program was expected to cost \$12.4 billion. The committee notes that in August 2009, the government was required to allocate a further \$1.7 billion to the program.

2.29 The Minister for Education told the Parliament that the additional funding was required to be allocated to the program due to its popularity:

...Within that \$42 billion stimulus we have made an extra allocation to Primary Schools for the 21st Century because it is going gangbusters and more primary schools want to be involved in it than were originally costed for...²¹

2.30 DEEWR gave evidence to the committee that additional funding was allocated to the P21 program from other elements of the stimulus plan in response to high demand.²²

2.31 The Commonwealth Coordinator-General gave evidence that the need for the further funding was as a result of the high degree of interest from primary schools across Australia:

[t]he P21 element has been extremely successful, attracting a high degree of interest from primary schools across Australia. The original costing was based on 2007 schools and school enrolment data and assumed a 90 per cent utilisation rate of total potential funding. This has meant higher funding costs than was originally anticipated. This is a result of the program's success, through its flexible delivery arrangements including allowing schools to apply for more than one project, and the release of 2009 enrolment data which shows an increase in the number of students and schools.²³

21 The Hon. Julia Gillard MP, *House of Representatives Hansard*, 7 September 2009, p. 8658; See also the Hon. Julia Gillard MP, *House of Representatives Hansard*, 10 September 2010, p. 9301.

22 The Department of Education, Employment and Workplace Relations, *Committee Hansard*, 30 November 2009, p. 3.

23 Commonwealth Coordinator-General's Progress Report, 3 February 2009-30 June 2009, p. 37.

2.32 However, the committee majority notes that the ANAO came to a very different conclusion for the reason for the additional funding. In its *Building the Education Revolution – Primary Schools for the 21st Century*, Performance Audit Report No. 33 2009-10, the ANAO found that:

Ultimately, the need for the additional funding provided by the Government in August 2009 arose from most schools having sought the maximum payments available. It did not flow from any deficiencies identified in the procurement processes or other activities of Education Authorities in delivering the program, nor was it the result of more schools seeking to participate than had originally been forecast.²⁴

2.33 Contrary to the views of the Minister for Education, the DEEWR and the Commonwealth Coordinator-General on the reason for the allocation of additional funding, the ANAO concluded there was an inherent tension between the government's policy intention to make maximum payments available to all schools and the total funding provided in its original decision. If all or nearly all schools applied for the maximum available funding amount per school announced in February 2009, then the cost of the program would have exceeded the funding originally allocated.²⁵

2.34 The government considered that the costings issue was the fault of the Department of Finance and Deregulation (Finance) which undertook the final costing for the program.²⁶ Finance gave evidence to the Senate Finance and Public Administration Committee during an estimates hearing that it had only one week to undertake the costings and estimated a 90 per cent utilisation rate.²⁷ Mr David Tune, Secretary, Department of Finance and Deregulation, stated:

Basically what we said, and you will appreciate the time frames we were doing this within, is that it is likely there will be a range of factors that may lead to less than 100 per cent coverage. As you know, each school by size was given a maximum amount of grant and so forth. So the calculations were done, multiply A by B for all the different categories, and you could come up with a number that was 100 per cent. Then we said that we think on the basis of a couple of things—one around possible take-up, number of schools who might take it up—it is possible, not certain but possible, that a number of schools may not take it up. It is also possible that not all schools

24 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 23.

25 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 23.

26 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 113.

27 Meaning that the majority of projects would be completed at less than 100 per cent of the applicable funding cap and a small proportion would not apply for various reasons. See explanation from Finance in ANAO report, ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 116.

will take the maximum amount of grant that is on offer for their particular size of school. Throwing that all into the mix in I will admit a non-scientific way because we did not have the data at that point to be able to demonstrate this—we said 90 per cent seems like a reasonable assumption in which to do the costing.²⁸

2.35 The ANAO performance audit also revealed a lack of clarity around the basis of the BER costings:

During the development of the policy proposal, different views on the likely funding requirements flowed from different assumptions about how the program would operate. DEEWR, Finance and the Department of the Prime Minister and Cabinet (which was closely involved in finalising advice to ministers) did not clarify and agree policy parameters for the proposal before the costing was finalised. Consequential misunderstanding of the costing basis ensued.²⁹

Costings confusion between departments

2.36 The initial costings undertaken by the Department of Finance and Deregulation were signed off by the Strategic Priorities and Budget Committee (SPBC). DEEWR advised the ANAO that it had not been provided with the final version.³⁰ The committee noted that the ANAO's performance audit indicates there was confusion between the various departments on the final costings for the P21 Program. At paragraph 5.18 of its performance audit the ANAO stated:

The final version of the new policy proposal prepared by DEEWR was sent to Finance and PM&C several days before the government decision. Although DEEWR had costed earlier versions of the proposals (including several options in the proposal that became BER P21), Finance undertook and supplied the final costing. PM&C provided the papers for ministers on which the Government made its decision. DEEWR has advised that it had “not been provided with the final papers that were provided to SPBC [and] it is unclear [to DEEWR] what was put to it.”³¹

2.37 On the evidence provided to the committee it is clear that the assumptions which underpinned Finance's costings had not been clarified and agreed between the agencies as envisaged in the Cabinet Handbook.³² Finance reduced to 90 per cent the

28 Mr David Tune, Secretary, Department of Finance and Deregulation, Finance and Public Administration Committee, *Estimates Hansard*, 26 May 2010, p. 10.

29 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 23.

30 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 113.

31 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 113.

32 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 114.

theoretical maximum funding. The BER National Coordinator raised concerns about the 90 per cent assumption with Finance and the Department of Prime Minister and Cabinet (PM&C) but it appears that the reduction to 90 per cent in the costing was misinterpreted as a forecast of a 90 per cent take up rate by schools.³³ As noted by the ANAO, this confusion and uncertainty on the need for the additional funds continued and showed:

...that a consistent part of DEEWR's explanation for needing more funds for BER P21 was that the number of schools likely to participate in the program had been underestimated in the costing. In fact, Finance always expected take up to be very high but that schools would use an average of only 90 per cent of their maximum possible funding.³⁴

2.38 In relation to the government funding decision, the ANAO noted the wording reflected a 'policy decision to fund schools to the maximum amount but provided insufficient funds in the event that most schools sought access to the maximum'. The ANAO noted that it was advised that SPBC ministers were aware that there may be a need to provide more funding.³⁵

2.39 The committee notes that it would have been unrealistic to assume that schools would not seek maximum available funding.

2.40 The additional funding was ultimately provided by making offsets from within the \$42 billion Nation Building and Jobs Plan. These included reallocating funds from the Science and Language Centre element of the BER program and the social housing program and axing the Low Emission Assistance Plan for Renters. The ANAO noted that until the funding issue was resolved DEEWR was unable to announce the outcome of Round 3 funding which:

...led to a delay of a month in project start dates for Round 3 from August – September 2009 to September-October 2009, slowing program delivery.³⁶

Committee view

2.41 The Minister maintains that the need for the additional funding was due to the P21 program's popularity. On the evidence of the respective parties on the need for the additional funding, the committee majority places greater weight on the objective and disinterested evidence of the ANAO.

33 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 115.

34 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 117.

35 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, pp 118-119.

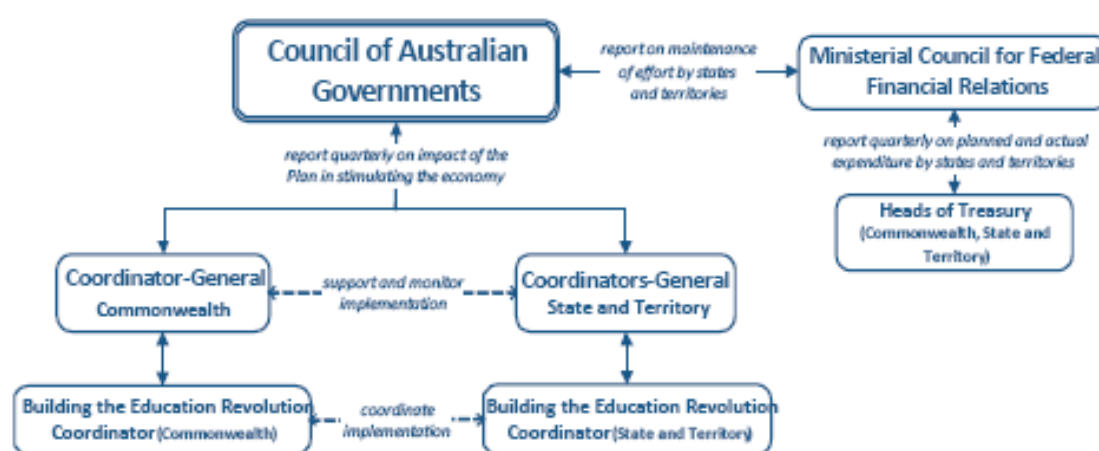
36 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, pp 1121-122.

2.42 The confusion between DEEWR and Finance as referred to in the ANAO report over costings of the \$14 billion P21 program astounds the committee majority. This confusion demonstrates a lack of communication and understanding which has impacted negatively on the P21 program delivery.

Parliament unable to fully scrutinise P21-related spending

2.43 P21 funding has been passed from the Commonwealth to the states for project management and implementation. The following schematic outlines the governance arrangements for the program.

Figure 1 Governance arrangements for the economic stimulus plan



Source: Department of Education, Employment and Workplace Relations, *Submission 22*, p. 6.

2.44 Under the National Partnership Agreement, a condition for the provision of P21 funding to the states and territories is that the funding is to be additional to planned spending—that is, it is to complement, rather than replace, state-based spending efforts on primary school infrastructure.³⁷

2.45 Schedule B to the agreement sets out that maintenance of state funding would be monitored through reporting to Heads of Treasuries and the Ministerial Council and that sanctions for any state's failure to meet spending benchmarks may include making this failure public.³⁸

2.46 During the early stages of its inquiry, the committee sought confirmation that the states were meeting their spending obligations. DEEWR informed the committee

37 See clauses 3 and 10 of the National Partnership Agreement, available at http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_nation_building_jobs.pdf (accessed on 13 June 2010).

38 Schedule B, National Partnership Agreement on the Nation Building and Jobs Plan, pp 12 – 13.

that the Treasury monitored the maintenance of the states' spending effort on a quarterly basis, through the provision of quarterly reports by the states.³⁹

2.47 The committee wrote to Dr Ken Henry, Secretary to the Treasury, requesting provision of the quarterly reports to assist the committee in assessing whether the states were meeting their planned spending efforts and to ensure accountability of the spending of Commonwealth monies under the P21 program.⁴⁰ Dr Henry declined to provide the reports to the committee, claiming that to do so may harm relations between the Commonwealth and the states.⁴¹

2.48 The committee then wrote to the Treasurer, the Hon Wayne Swan MP, in February 2010⁴² and again in March 2010,⁴³ after failing to receive a response to its first letter, requesting the release of the quarterly reports on the following basis:

- If all states and territories have complied with the requirement to maintain their spending effort, it is difficult to see how any damage could be caused by providing confirmation of this fact.
- If any state or territory has not complied with the requirement to maintain its funding effort, it is an explicit feature of the National Partnership Agreement on the Nation Building and Jobs Plan that such a failure may be made public.
- State and territory capital spending on schools will ultimately be made public through various budget papers and reports. The committee is seeking this information in a more timely fashion in order to progress its current inquiry.

2.49 The committee majority was not satisfied with the reasons given by the Treasurer in April 2010 for refusing to provide access to the documents⁴⁴ and

39 *Committee Hansard*, Monday 30 November 2009, p. 36.

40 A copy of this correspondence has been published on the committee's inquiry web page. It can be viewed at the following link:
http://www.aph.gov.au/Senate/committee/eet_ctte/primary_schools/correspondence/letter_to_Treasury021209.pdf (accessed on 13 June 2010).

41 A copy of this correspondence has been published on the committee's inquiry web page. It can be viewed at the following link:
http://www.aph.gov.au/Senate/committee/eet_ctte/primary_schools/correspondence/Response_from_Dr_Henry.pdf (accessed on 13 June 2010).

42 A copy of this correspondence has been published on the committee's inquiry web page. It can be viewed at the following link:
http://www.aph.gov.au/Senate/committee/eet_ctte/primary_schools/correspondence/100206_Letter_to_Treasurer_re_request_for_information.pdf (accessed on 13 June 2010).

43 A copy of this correspondence has been published on the committee's inquiry web page. It can be viewed at the following link:
http://www.aph.gov.au/Senate/committee/eet_ctte/primary_schools/correspondence/100315_Second_letter_to_Treasurer_re_request_for_info.pdf (accessed on 13 June 2010).

determined to seek the support of the Senate for its request that the quarterly reports be provided. Senator Michaelia Cash, Chair of the EEWL References Committee, duly moved the following motion in the Senate on 12 May 2010:

That the Senate:

(a) notes that:

- (i) under the agreement reached between the Commonwealth Government and the states, stimulus funding under the Government's Nation Building and Jobs Plan is to be additional to existing state spending efforts;
- (ii) as part of its inquiry into the Primary Schools for the 21st Century school building program, the Education, Employment and Workplace Relations References Committee is seeking to ensure that states and territories have maintained their planned spending on primary schools and have not reduced their spending as a consequence of receiving stimulus funding through the Government's Nation Building and Jobs Plan;
- (iii) the committee received evidence in November 2009 that maintenance of spending effort is being monitored through quarterly reports by the states and territories to Heads of Treasury;
- (iv) the committee wrote to the Secretary of Treasury (Dr Ken Henry) in December 2009 requesting copies of these quarterly reports;
- (v) the Secretary of Treasury wrote back to the committee, also in December 2009, declining to provide the reports on the basis that to do so would not be in the public interest as it would damage relations between the Commonwealth and the states, but noting that a decision on whether to provide the reports was ultimately a matter for the Treasurer (Mr Swan);
- (vi) the committee then wrote to the Treasurer on 8 February 2010, noting its disagreement with the Secretary of Treasury's assessment that provision of the reports would damage relations between the Commonwealth and the states, and requesting provision of the quarterly reports by no later than 26 February 2010;
- (vii) having received no formal response, the committee again wrote to the Treasurer on 15 March 2010, asking that the reports be provided by 26 March 2010;

44 A copy of the Treasurer's reply to the committee's request has been published on the committee's inquiry web page. It can be viewed at the following link:
http://www.aph.gov.au/Senate/committee/eet_ctte/primary_schools/correspondence/index.htm
(accessed on 13 June 2010).

- (viii) when the Treasurer finally responded to the committee's correspondence on 20 April 2010, he refused the committee's request on the basis that to release the quarterly reports (either publicly or in camera) could reasonably be expected to cause damage to relations with the states and would therefore not be in the public interest; and
 - (ix) the committee continues to disagree with the grounds advanced by the Treasurer for failing to provide the reports, for the following reasons:
 - a) if all states and territories have complied with the requirement to maintain their spending effort, the committee does not see how any damage could be caused by providing evidence to confirm this fact;
 - b) if any state or territory has not complied with the requirement to maintain its funding effort, it is an explicit feature of the National Partnership Agreement on the Nation Building and Jobs Plan that such a failure may be made public; and
 - c) state and territory capital spending on schools will ultimately be made public through various budget papers and reports. The committee is merely seeking this information in a more timely fashion in order to progress its current inquiry; and
- (b) orders that there be laid on the table by the Minister representing the Treasurer no later than 4.00pm on Thursday 13 May 2010 the quarterly reports as requested.

2.50 The Senate agreed to this motion. However, the government refused to produce the documents. The following statement responding to the Senate's resolution for the production of the documents was tabled on 13 May 2010 by Senator the Hon. Nick Sherry, Assistant Treasurer:

I have noted the Committee's arguments in support of the release of these reports. However, contrary to the Committee's assertions, I consider the fact that making the assessment public is an explicit sanction in the agreement ...supports the Treasurer's conclusion that releasing the reports would not be in the public interest.

I consider that the release of the quarterly reports on progress under the National Partnership Agreement on the Nation Building and Jobs Plan would harm the national interest on the grounds that their release could reasonably be expected to cause damage to relations with the States. Further, I consider that the damage could result equally from the disclosure of the information or document to the Committee as in camera evidence.⁴⁵

Committee view

2.51 The committee majority does not agree with the reasons given by the government for refusing to disclose the quarterly reports to the committee.

2.52 Ensuring that the states are properly discharging their spending commitments under the P21 program is integral to the Commonwealth government's responsibility to ensure that taxpayers' money is properly spent.

2.53 The committee majority has grave concerns about the broader implications of its inability to properly scrutinise the spending of Commonwealth government money under the federal financial relations framework, particularly in relation to the government's proposed healthcare reform agenda. This is discussed further in chapter 4 of this report.

2.54 The committee majority's concerns about its inability to scrutinise government spending extend beyond the P21 program to other programs being delivered under, or planned to be delivered under, the new federal financial relations framework.⁴⁶ The government has stated that this framework is intended to improve scrutiny and accountability:

This will greatly improve public transparency of these payments and the ability of the Parliament to scrutinize the payment arrangements.⁴⁷

2.55 The government's claims of improving public transparency are made hollow by its failure to comply with the Senate resolution to produce the quarterly reports on the maintenance of state spending, which would enable the committee to properly scrutinise the expenditure of Commonwealth monies in relation to the P21 program.

Recommendation 1

2.56 The committee majority recommends that all quarterly reports on maintaining state spending on primary school infrastructure be made available immediately.

Poorly designed P21 program delivery guidelines

2.57 Evidence was given to the committee that the P21 program delivery guidelines were poorly designed and contributed to:

- a lack of clarity;
- a lack of flexibility in targeting to areas of need; and
- unnecessary duplication of existing facilities.

46 For more information on this framework, see <http://www.federalfinancialrelations.gov.au/> (accessed on 13 June 2010).

47 Australian Government, <http://www.federalfinancialrelations.gov.au/> (accessed on 13 June 2010).

Lack of clarity

2.58 The committee heard evidence that some schools found that the guidelines were unclear, did not cover key elements of the program and lacked certainty. Mrs Iona Eichstadt gave evidence to the committee that:

The guidelines were very, very vague. There were not clear and concise guidelines provided to the school about what they should do at every stage.⁴⁸

Lack of flexibility

2.59 The ANAO survey of 622 school principals found that almost 70 per cent of school principals were either dissatisfied or strongly dissatisfied with the degree of flexibility and individual customisation when using the education authority's template design.⁴⁹

2.60 The ANAO in its performance audit found that DEEWR was unnecessarily prescriptive in administering the P21 program:

While designed to give effect to the objective of the stimulus package, the approach adopted by the department has reduced the capacity of school systems to take account of system priorities and the differing needs of schools in their systems, within the Australian Government's policy parameters for the program. Additionally, some of the administrative arrangements put in place by the department were unduly complicated and time-consuming for Education Authorities. It was open to the department to have adopted a more streamlined approach to program delivery in consultation with Education Authorities, while still meeting the policy objectives of the program.⁵⁰

2.61 The committee also heard from a number of witnesses who were frustrated that people with knowledge of the local school community and its needs were not able to have adequate input into what buildings the school would receive from the program. Instead the schools were required to operate under inappropriate one-size-fits-all models whether they suited the specific or individual needs of the school or not.

48 Mrs Iona Eichstadt, *Proof Committee Hansard*, 17 May 2010, p. 57.

49 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 189.

50 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 17.

Overly prescriptive use of template designs

2.62 The BER Guidelines stipulate that design templates should be used wherever possible on BER projects.⁵¹ The government referred to the 'flexible use of design templates' that the guidelines allow 'to reduce costs and accelerate the rollout' of the program.⁵² Under the guidelines, it is clearly possible to forego using templates where justified.

2.63 The committee majority notes that the guidelines specifically stipulate that:

[t]o further enhance efficiency and early take-up, design templates will be used by states, territories and BGAs, wherever possible. These templates must be used by each project unless a school or system has a pre-approved design available, or can demonstrate that the non-use of a template is reasonable, appropriate and that the building process can still be expedited and achieved within the prescribed timeframes. Following the provision of design templates by individual states, territories and BGAs, the Commonwealth will disseminate the design templates to states, territories and BGAs for their use with schools for the purposes of the BER.⁵³

2.64 Because schools were required to show the capacity to commence projects immediately to be eligible for first-round funding, most schools that were allocated funding in Round 1 of the program utilised template designs.⁵⁴

2.65 The Queensland Catholic Education Commission (QCE Commission) in its submission to the inquiry cautioned that, while school communities were mostly able to select appropriate facilities, a wider choice of facilities would have led to better outcomes. The QCE Commission commented that:

...there was flexibility to choose appropriate facilities but [it] believes the philosophy behind the 'lock-step' decision making was unnecessarily cumbersome and that schools and their communities should have been given greater initial choice of facilities to contribute to improved educational outcomes and learning for their community.⁵⁵

51 Australian Government, *Nation Building, Economic Stimulus Plan - Building the Education Revolution Guidelines*, Version 3, 21 September 2009, p. 2, available at http://www.aph.gov.au/Senate/committee/eet_ctte/primary_schools/hearings/DEEWRBERGuidelines.pdf (accessed on 13 June 2010).

52 Senator the Hon. Kim Carr, Minister representing the Minister for Education, *Senate Hansard*, 17 June 2009, p. 3539.

53 Australian Government, *Nation Building, Economic Stimulus Plan - Building the Education Revolution Guidelines*, Version 3, 21 September 2009, p. 3, available at http://www.aph.gov.au/Senate/committee/eet_ctte/primary_schools/hearings/DEEWRBERGuidelines.pdf (accessed on 13 June 2010).

54 Department of Education, Employment and Workplace Relations, *Submission 22*, p. 13.

55 Queensland Catholic Education Commission, *Submission 20*, p. 3.

2.66 The short time frames imposed for the delivery of the P21 program, combined with one-size-fits-all templates, do not adequately allow for individual site requirements. Evidence was given to the committee that templates are particularly unsuited to sites that have special considerations such as steep slopes, limited access or particular architectural requirements. Coogee Public School Parents' and Citizens' Association informed the committee that:

...the one-size fits all templates (employed by the NSW Department of Education and Training) do not work within school communities situated on a complex site with historic significance...⁵⁶

2.67 Some critics highlighted inadequacies in using inflexible templates, stating that such designs do not meet general school or community needs. Evidence was given to the committee that the NSW Education Department's template which was used in the project at Coogee Public School did not include a basic food preparation facility.⁵⁷ A food preparation facility will however in all probability be required when community groups use the hall. Using a template in this circumstance clearly did not adequately accommodate the P21 requirement of community access to facilities funded under the BER program.

2.68 Jindera Public School Parents and Citizens Association (JPSPCA) also gave evidence to the committee concerning template inflexibility. JPSPCA believe that many new P21 facilities were not suited to the individual schools and their needs. Far from complementing schools and aligning with their long-term planning strategies, the inflexible template meant that buildings were being forced to fit into school landscapes. JPSPCA stated that the 'template approach' was inefficient.⁵⁸

2.69 Evidence was also given that templates provide little flexibility in design prior to and during construction. This lack of flexibility became contentious for a number of schools. The principal of Warrnambool East Primary School saw the lack of consultation with the local community and lack of design flexibility as a lost opportunity to enhance the project at his school. The school would have benefited greatly from adding a performance stage. Despite initial optimism, it became evident as the project progressed that no alterations to the template design would happen. Consequently, the school faced the prospect of raising extra funds to buy a stage in order to meet students' needs. The Principal informed the committee that:

[w]hile it is fine to have a basic template there needs to be much more input at the local level into the finishing touches on each project.⁵⁹

56 Coogee Public School Parents and Citizens Association, *Submission 6*, p. 1.

57 Coogee Public School Parents and Citizens Association, *Submission 6*, p. 2.

58 Jindera Public School Parents and Citizens Association, *Submission 37*, p. 1.

59 Warrnambool East Primary School, *Submission 9*, p. 1.

2.70 The NSW Catholic Block Grant Authority also rejected using templates, noting that this type of approach was not 'part of [its] historical and ongoing building program'. The BGA gained DEEWR's agreement with this decision and reported that:

...all [NSW Catholic Block Grant Authority] P21 projects have been architecturally designed, designed to site and in permanent construction. There were of course opportunities to utilise commonalities in design to hasten the process.⁶⁰

2.71 Professor Brian Caldwell, previously Dean of Education at the University of Melbourne and now Managing Director of Educational Transformations Pty Ltd, also criticised the use of templates. He contrasted the process in government and private schools, noting that the use of template designs was far less common in private schools:

I drive past too many schools where new classrooms look too much like the old classrooms – factory-style reflecting mass-production technology – that will be obsolete within a very short time and probably run-down in condition...Public schools around the country have had to conform to government templates in the design of new facilities. Many if not most private schools have had no such constraints with the next stage of their master plans ready to roll when funding became available.⁶¹

Unnecessary duplication of facilities

2.72 Other witnesses drew the committee's attention to media reports of duplication of buildings in the P21 program. In a submission lodged with the committee, the Western Australian Council of State School Organisations claimed that schools were 'encouraged' to apply for facilities that were not actually needed.⁶²

2.73 The JPSPCA gave the committee a specific example of the problem relating to the duplication of buildings. Although the JPSPCA wanted to apply for a bigger multipurpose hall, it failed to see the benefit of its proposed BER project which merely duplicated existing facilities. The JPSPCA explained that:

[t]he hall that was offered to our school was the same size as the existing hall which would be doubling up buildings and of no benefit to our school as we hoped for a hall that will accommodate the whole school...⁶³

60 NSW Catholic Block Grant Authority, *Submission 14*, p. 2.

61 Professor Brian Caldwell, 'Why the Education Revolution is not Transforming Our Schools', Address to a Public Forum on Education at the Performing Arts Centre, Hamilton, Victoria, 4 March 2010, available at <http://www.educationaltransformations.com.au/files/Why%20the%20Education%20Revolution%20is%20Not%20Transforming%20Schools.pdf> (accessed 16 March 2010).

62 Western Australian Council of State School Organisations, *Submission 32*, pp 3–4.

63 Jindera Public School Parents and Citizens Association, *Submission 37*, p. 1.

2.74 The JPSPCA also stated that the BER funds could have been more effectively directed towards other infrastructure that the school already planned.⁶⁴

2.75 The Coogee Public School Parents' and Citizens' Association noted that short timeframes and a consequential lack of consultation and planning sometimes caused duplication.⁶⁵

Money not appropriately targeted

2.76 The Western Australian Council of State School Organisations gave evidence in its submission that the amount of funding that a particular school could apply for was not variable as it was set in the BER Guidelines. Although schools 'were not required to submit applications for P21 funding',⁶⁶ some schools may have decided to apply for less funding if given the option. The council believed that some schools received unnecessary funding and that excess funds could have been more effectively spent elsewhere 'to enable a broader delivery of funding across the spectrum'.⁶⁷

2.77 Mr Angelo Gavrielatos, Federal President, the Australian Education Union (AEU), gave evidence to the committee that the P21 program represented a 'missed opportunity to better target...demonstrable need'.⁶⁸ The AEU highlighted this point in an answer to a question on notice to the committee:

In response to raising the issue of The King's School in Sydney receiving \$2.5 million for a school library, the Chair asked whether the school would already have had a library. We are able to confirm for the Committee that the school's website indicates that the school has a centre of learning and leadership incorporating a computerised library, as well as its own museum, rugby fields, football fields, cross-country tracks, 50-metre swimming pool, heated pool, sports centre, advanced cricket facilities, rowing, indoor rock climbing, indoor shooting range, tennis and basketball courts, information technology centre, science centre, 320-seat professional theatre, comprehensive music centre, boatshed on Parramatta River, and a historic sandstone chapel. We trust this clarifies the matter.⁶⁹

64 Jindera Public School Parents and Citizens Association, *Submission 37*, p. 1.

65 Coogee Public School Parents and Citizens Association, *Submission 6*, p. 3.

66 DEEWR, *Submission 22*, p. 21.

67 Western Australian Council of State School Organisations, *Submission 32*, p. 3.

68 Mr Angelo Gavrielatos, AEU, *Proof Committee Hansard*, 17 May 2010, p. 24.

69 AEU, answer to question taken on notice on 17 May 2010, published on the committee's inquiry web page at http://www.aph.gov.au/Senate/committee/eet_ctte/primary_schools/submissions.htm (accessed on 13 June 2010).

Inadequate monitoring and compliance mechanisms

2.78 At paragraphs 2.15 to 2.17, the committee majority noted its concern that the only performance indicator for the P21 program included in the National Partnership Agreement related to the number of projects on foot. The ANAO in its report also commented negatively on the monitoring and compliance arrangements designed into the P21 program. Noting that DEEWR commenced its monitoring performance and information plan for P21 Program in July 2009 but did not complete it until late 2009, the ANAO found:

...the plan and framework were not in place sufficiently early to inform the department's initial consultations with the Coordinator-General on the appropriateness of monitoring arrangements, or to guide departmental monitoring activity over the establishment and early implementation phases of BER P21.⁷⁰

2.79 The ANAO further stated:

The design of the monitoring arrangements agreed between the Coordinator-General and DEEWR for BER P21 did not adequately reflect the devolved nature of the program implementation or acknowledge that detailed monitoring at the project level is most suited to arrangements between Education Authorities and schools. Under current arrangements, Education Authorities have provided DEEWR with a broad range of data, some of which the authorities were not well placed to collect or interpret, which the department and the Coordinator-General have been unable to use effectively to inform an assessment of program progress. A substantial majority of Education Authorities questioned the usefulness of some of the monitoring arrangements they were expected to undertake for the BER program. In particular, arrangements established to monitor the effect of the BER program on employment have relied on data collected at the project level. This data cannot be aggregated in any meaningful way to inform an assessment of progress against BER program employment outcomes that would complement the macroeconomic modelling for the broader Nation Building and Jobs Plan undertaken by the Treasury. In instances such as this, where it has not been possible to obtain valid data to effectively assess progress against measures and outcomes established for the BER program in Schedule D of the NPA, it would have been prudent for DEEWR, in consultation with the Coordinator General, to advise government accordingly.⁷¹

70 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, p. 24.

71 ANAO, *Building the Education Revolution – Primary Schools for the 21st Century*, Audit Report No. 33 2009-10, Performance Audit, pp 24-25.

Conclusion

2.80 The P21 program was ill-conceived. It was not accurately costed, and there was confusion in respect to its funding and the design of its implementation guidelines. The poorly designed guidelines resulted in a lack of clarity, a lack of flexibility in targeting areas of need and unnecessary duplication of existing facilities. The following chapter explores the poor outcomes being achieved under the program by many schools.