

The Senate

Environment and Communications
References Committee

Great Barrier Reef 2050 Partnership Program

February 2019

© Commonwealth of Australia 2018

ISBN 978-1-76010-869-4

Committee contact details

PO Box 6100
Parliament House
Canberra ACT 2600

Tel: 02 6277 3526

Fax: 02 6277 5818

Email: ec.sen@aph.gov.au

Internet: www.aph.gov.au/senate_ec

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

This document was printed by the Senate Printing Unit, Parliament House, Canberra

Committee membership

Committee members

Senator Peter Wish-Wilson, Chair from 21 June 2018	AG, Tasmania
Senator Jonathan Duniam, Deputy Chair	LP, Tasmania
Senator Anthony Chisholm	ALP, Queensland
Senator the Hon Kristina Keneally	ALP, New South Wales
Senator Steve Martin, from 27 June 2018	NATS, Tasmania
Senator Anne Urquhart	ALP, Tasmania

Participating members for this inquiry

Senator the Hon Kim Carr	ALP, Victoria
Senator Janet Rice, Chair from 19 June 2018 to 20 June 2018	AG, Victoria

Former member

Senator Linda Reynolds, to 27 June 2018	LP, Western Australia
---	-----------------------

Committee secretariat

Ms Christine McDonald, Committee Secretary
Mr Nicholas Craft, Acting Principal Research Officer
Ms Nicola Knackstredt, Acting Principal Research Officer
Mr Michael Perks, Research Officer
Ms Georgia Fletcher, Administrative Officer
Ms Shannon Ross, Administrative Officer

Table of contents

Committee membership	iii
List of recommendations	vii
Chapter 1: Introduction	1
Conduct of the inquiry	2
Acknowledgements	7
Overview of the Great Barrier Reef 2050 Partnership Program	7
Stakeholders in the Reef management sector	9
2017–18 Government measures for Reef-related activities	15
Australian National Audit Office audit of the Partnership	15
Chapter 2: The Great Barrier Reef Foundation and the \$444 million Foundation Partnership	19
The Great Barrier Reef Foundation	19
The approach to the Foundation for the \$444 million Partnership	26
Development of Collaboration Principles for the Partnership	28
Approval of the grant	30
The Grant Agreement	31
Delivery of funding to the Foundation	35
Chapter 3: The decision to fund the Foundation Partnership	39
Initial consideration of funding for the Reef	39
A lack of consultation with Reef stakeholders	44
Lack of evidence of due diligence in the Government's decision	47
The use of a grant mechanism to award funding	51
The delivery of funds in the 2017–18 year as a single payment	55
Size of other Commonwealth grants awarded in 2018	58

Chapter 4: Matters raised in evidence about the \$444 million Foundation Partnership	59
Choice of an organisation outside of government.....	59
Potential loss of the Reef's World Heritage status	62
Concerns about Partnership delivery and administration.....	64
Addressing critical underlying causes of damage to the Reef	79
Chapter 5: Audit of the award of the grant to the Great Barrier Reef Foundation.....	85
Departmental advice	85
Program guidelines	86
Approval of grant funding	87
Evaluation of the Foundation's proposal by the department	87
Entity response and implications for the department	91
Chapter 6: Committee view and recommendations	93
A hastily and poorly designed approach	95
Capacity of the Foundation and Commonwealth assessment of risk.....	100
Meeting Australia's World Heritage commitments	103
Parliamentary oversight of the Agreement.....	104
Addressing climate change.....	107
Coalition Senators' dissenting report.....	109
Appendix 1: Submissions, tabled documents, additional information, answers to questions on notice, correspondence and media release	111
Appendix 2: Public hearings	115

List of recommendations

Recommendation 1

6.12 The committee recommends that all unspent Foundation Partnership funds be returned to the Commonwealth immediately; and that these funds be earmarked for expenditure on projects to protect and preserve the Reef, to be expended by 30 June 2024.

Recommendation 2

6.16 The committee recommends the Commonwealth Government undertake a review, to be completed by 1 July 2019, of the structure of Commonwealth funding to protect and preserve the Great Barrier Reef. The committee further recommends that the expenditure of unspent Foundation Partnership funds be guided by the outcome of this review.

Recommendation 3

6.77 The committee recommends that the Commonwealth and Queensland Governments publish an updated Reef 2050 Plan Investment Framework that provides current figures on established funding by source and priority area.

Recommendation 4

6.81 Should a Government decide to maintain the Foundation Agreement, the committee recommends that all necessary steps be undertaken to ensure that the Foundation's investment of public funds precludes investment in sectors or funds that directly or indirectly contribute to climate change, particularly companies that generate energy from or undertake mining of fossil fuels.

Recommendation 5

6.85 Should a Government decide to maintain the Foundation Agreement, the committee recommends that the Senate order:

That—

- (1)** There be laid on the table by the Minister representing the Minister for the Environment and Energy, by no later than 31 October each year:
 - (a)** an annual performance statement for the previous financial year that provides information about the Great Barrier Reef Foundation's performance in achieving the purposes of the Great Barrier Reef 2050 Partnership Program; and
 - (b)** independent and audited financial statements for the previous financial year for all receipts and payments relating to the

Great Barrier Reef 2050 Partnership Program funds, including any co-financed contributions.

- (2) If the Senate is not sitting when a statement is ready for presentation, the statement is to be presented to the President under standing order 166.**
- (3) This order has effect until the end of the last financial year in which the Agreement is operative, following the cessation of the Partnership.**

Recommendation 6

6.98 Should a Government decide to maintain the Foundation Agreement, the committee recommends that the Auditor-General undertake a second audit of the Partnership in late 2019–20 once the design aspects of the Partnership have been finalised.

Recommendation 7

6.104 The committee recommends that the Commonwealth Government take steps to address and effectively tackle climate change as an underlying cause of economic, social and environmental damage to the Reef and the Australian environment more broadly.

Chapter 1

Introduction

1.1 On 19 June 2018, the Senate referred the following matter to the Environment and Communications References Committee (the committee) for inquiry and report by 13 July 2018:

The 2018–19 Budget measure *Great Barrier Reef 2050 Partnership Program*, with particular reference to:

- (a) the delivery of the Reef 2050 Plan, including through the Great Barrier Reef 2050 Partnership Program and through other avenues;
- (b) the proficiency of the Great Barrier Reef Foundation and its capacity to deliver components of the Reef 2050 Plan;
- (c) the proficiency of other organisations and their capacity to deliver components of the Reef 2050 Plan;
- (d) the process of granting funding to the Great Barrier Reef Foundation for the Great Barrier Reef 2050 Partnership Program, the terms of agreement for funding, and the ongoing administration of funding;
- (e) the prior activities and operations of the Great Barrier Reef Foundation, including research, public policy advocacy and fundraising;
- (f) the establishment, governance and membership of the Great Barrier Reef Foundation, including the management of conflicts of interest and commercial interests; and
- (g) any other related matters.¹

1.2 On 25 June 2018, the Senate granted an extension of time to report until 15 August 2018.² On 13 August 2018, the Senate granted a further extension to 16 October 2018.³ On 15 October 2018, the Senate extended the reporting date until 4 December 2018.⁴ A final extension to 13 February 2019 was granted by the Senate on 4 December 2018.⁵

1 *Journals of the Senate*, No. 99, 19 June 2018, p. 3186.

2 *Journals of the Senate*, No. 102, 25 June 2018, p. 3271.

3 *Journals of the Senate*, No. 106, 13 August 2018, p. 3423.

4 *Journals of the Senate*, No. 102, 15 October 2018, p. 3895.

5 *Journals of the Senate*, No. 135, 4 December 2018, p. 4394.

Conduct of the inquiry

1.3 In accordance with its usual practice, the committee advertised the inquiry on its website and wrote to relevant individuals and organisations inviting submissions by 2 July 2018.

1.4 The committee received 24 submissions, which are listed at Appendix 1.

1.5 The committee held three public hearings in:

- Brisbane on 30 July 2018;
- Canberra on 18 September 2018; and
- Canberra on 21 September 2018.

1.6 The list of witnesses who appeared at public hearings is at Appendix 2. The public submissions, transcripts of evidence and other information published by the committee for this inquiry are available on the committee's website.⁶

Additional information considered by the committee

1.7 In this inquiry, the committee has also drawn upon evidence from relevant departments and agencies taken during the Budget Estimates 2018–19 hearings of the Environment and Communications Legislation Committee, the Economics Legislation Committee, and the Finance and Public Administration Legislation Committee.

1.8 In addition, the committee has considered the documents made public as part of various Freedom of Information (FOI) requests and documents tabled in the Senate following orders for the production of documents.

Freedom of Information requests

1.9 Over the course of this inquiry, Commonwealth Government departments have released documents under FOI provisions that are relevant to this inquiry, including documents released by the Treasury (reference FOI 2325, released 17 August 2018); and the Department of the Environment and Energy (the department) (reference FOI 180514, released 27 August 2018).

1.10 The committee understands that an FOI request was lodged with the Great Barrier Reef Marine Park Authority (GBRMPA), which has not resulted in the publication of any documents.⁷ Additionally, according to its FOI disclosure log 2018,

6 The committee's site can be found at www.aph.gov.au/senate_ec.

7 Mr Tony Burke MP, 'FOI reveals more confusion on the government's Great Barrier Reef cash splash', *Media Release*, 21 June 2018, www.tonyburke.com.au/media-releases/2018/6/21/media-release-foi-reveals-more-confusion-on-the-governments-great-barrier-reef-cash-splash (accessed 8 November 2018).

the Department of Industry, Innovation and Science has not published any FOI documents relating to the Partnership Agreement.⁸

Orders for the production of documents

1.11 The Senate agreed to several orders for the production of documents in relation to the matter being inquired into by this committee, which will be outlined in turn.

1.12 On 20 June 2018, the Senate agreed to the following order (notice of motion no. 857):

That there be laid on the table by the Minister for Jobs and Innovation, by no later than 9.30 am on 27 June 2018, documents relating to the Great Barrier Reef Foundation generated since 1 July 2017 and held by:

- (a) the Commonwealth Scientific and Industrial Research Organisation; and
- (b) the Australian Institute of Marine Science.⁹

1.13 Documents pursuant to this order were tabled on 13 April 2018.¹⁰

1.14 On 15 August 2018, the Senate agreed a subsequent order (notice of motion no. 954), as follows:

That there be laid on the table by the Minister for Jobs and Innovation, by no later than 9.30 am on 21 August 2018:

- (a) documents held by the Department of Industry, Innovation and Science relating to the announcement, establishment and implementation of the partnership with the Great Barrier Reef Foundation; and
- (b) documents held by the Australian Institute of Marine Science (AIMS) relating to the announcement, establishment and implementation of the partnership with the Great Barrier Reef Foundation.¹¹

1.15 However, pursuant to the order of 21 August 2018, the relevant Minister, Senator the Hon Michaelia Cash, tabled a letter that stated:

Given the short period of time since the order was made and the wide scope of the order, encompassing a Commonwealth department and agency, further time will be required to respond. A response will be provided to the

8 See Department of Industry, Innovation and Science, 'Freedom of information disclosure log 2018', www.industry.gov.au/freedom-of-information-disclosure-log-2018 (accessed 10 November 2018).

9 *Journals of the Senate*, No. 100, 20 June 2018, p. 3216.

10 *Journals of the Senate*, No. 106, 13 August 2018, p. 3391.

11 *Journals of the Senate*, No. 108, 15 August 2018, p. 3475.

Senate as soon as possible. I have copied this letter to Senator Cormann and Senator Carr.¹²

1.16 The following day, 22 August 2018, the Senate took note of the explanation made by the Minister, Senator Cash, regarding the failure to comply with the order of 15 August 2018.¹³

1.17 A further order for the production of documents was passed by the Senate on 21 August 2018 (notice of motion no. 978), requiring:

That there be laid on the table by the Minister representing the Minister for the Environment and Energy (Senator Birmingham), by no later than 10 am on 10 September 2018, documents held by the Department of the Environment and Energy that demonstrate that, before the grant of \$444 million to the Great Barrier Reef Foundation (the Foundation) was approved:

- (a) due diligence was carried out on the Foundation; and
- (b) evidence was provided of the capacity of the Foundation to manage a grant of this size and to reduce its administration costs by approximately 50%.¹⁴

1.18 Documents responding to the order of 21 August 2018 were tabled in the Senate on 10 September 2018, with some documents withheld, claiming a public interest immunity for legal advice provided to government. Regarding this claim, on 17 September 2018, the Senate passed an order for the production of documents (notice of motion no. 1050):

(1) That the Senate notes that:

- (a) on 21 August 2018, the Senate agreed to an order for the production of documents directed at the Minister representing the Minister for the Environment and Energy for documents relating to the grant of \$444 million to the Great Barrier Reef Foundation (the Foundation), including documents demonstrating due diligence was carried out on the Foundation;
- (b) on 10 September 2018, the duty minister tabled the index to a due diligence report prepared by the Australian Government Solicitor but did not table the body of the report, making a public interest immunity claim of legal professional privilege;
- (c) to the extent that the report fulfils a due diligence task, it cannot be characterised as legal advice and, therefore, cannot attract the

12 This letter was read into Hansard by Senator the Hon Michaela Cash on 22 August 2018. See *Journals of the Senate*, No. 112, 22 August 2018, p. 3584. See also *Senate Hansard*, 22 August 2018, p. 5550.

13 *Journals of the Senate*, No. 112, 22 August 2018, p. 3584.

14 *Journals of the Senate*, No. 111, 21 August 2018, p. 3566.

privilege—it is noted that the document comprised largely information that is available online free of charge or for a nominal fee, such as company details, insolvency notice search results, media searches, ASIC personal name search results, and AUSTLII case searches;

- (d) the Senate does not accept legal professional privilege as a basis for a claim of public interest immunity unless it is established that there is some particular harm to be apprehended by the disclosure of the information;
- (e) in *Egan v Chadwick*, Chief Justice Spigelman held that 'in performing its accountability function, the Legislative Council may require access to legal advice on the basis of which the Executive acted, or purported to act...access to such advice will be relevant in order to make an informed assessment of the justification for the Executive decision. In my opinion, access to legal advice is reasonably necessary for the exercise by the Legislative Council of its functions'; and
- (f) as a country that upholds the rule of law, the Government must not rely on conventions, no matter how longstanding, that are contrary to established principles in law.

(2) That the Senate does not accept the public interest immunity claim made by the then Minister representing the Minister for the Environment and Energy (Senator Birmingham) in relation to the due diligence report prepared by the Australian Government Solicitor, and requires the Minister representing the Minister for the Environment to table the due diligence report, in accordance with the order for the production of documents agreed to by the Senate on 21 August 2018, with any appropriate redactions where there is some particular harm to be apprehended, accompanied by a properly made out claim for public interest immunity identifying the harm.¹⁵

1.19 On 17 September 2018, Senator the Hon Anne Ruston, Assistant Minister for International Development and the Pacific, made a statement by leave on the public interest immunity claim made regarding order of 17 September 2018, arguing that:

The due diligence report constitutes legal advice. The government did not claim public interest immunity on the basis of legal professional privilege, but on that basis there is public interest in the government's legal advice remaining confidential. This is based on the longstanding practice of successive Australian governments. There is a significant public interest in government having access to confidential legal advice for the purposes of policy development and decision-making. The government sees no reason to depart from this principle in this case.¹⁶

15 *Journals of the Senate*, No. 118, 17 September 2018, p. 3769.

16 *Senate Hansard*, 17 September 2018, p. 58.

1.20 Some documents were tabled responding to the order of 20 September 2018, by Senator Cash, the Minister for Jobs and Innovation.¹⁷

Information provided by Mr Malcolm Turnbull, former Prime Minister

1.21 The committee sought information about the award of the grant from the Hon Malcolm Turnbull, who was Prime Minister at the time that the decision was made to fund the Partnership with the Great Barrier Reef Foundation (Foundation Partnership).

1.22 The committee put questions on notice to Mr Turnbull on 24 September 2018, which he provided a response to on 1 October 2018.¹⁸ The committee wrote to Mr Turnbull again on 6 December 2018, offering him the opportunity to give further evidence to the inquiry in person, which he declined by email on 24 December 2018.¹⁹

1.23 The committee agreed to conclude its deliberations with the evidence available.

Structure of the report

1.24 This report comprises six chapters, as follows:

- The remaining discussion in this chapter provides a background of the issues considered by this inquiry, including the Great Barrier Reef 2050 Partnership Program Budget measure, and the principal stakeholders in the Reef management sector.
- Chapter 2 looks at the Great Barrier Reef Foundation (the Foundation), its history, governance and fundraising activities, and its funding of research projects and program delivery. It also sets out evidence about the development of the conditions of the Grant Agreement establishing the Foundation Partnership between the Commonwealth and the Foundation.
- Chapter 3 looks at the available information about the development of the Foundation Partnership measure by the Commonwealth, as well as how the decision to award an unprecedented \$444 million was reached.
- Chapter 4 sets out the matters raised in evidence received by the committee regarding the probity of the decision to award unprecedented grant funding to the Foundation, the risks of the Foundation's administration of the grant, and shortcomings of the policy in addressing the real causes of damage to the Great Barrier Reef (the Reef);

17 *Journals of the Senate*, No. 121, 20 September 2018, p. 3863.

18 The Hon Malcolm Turnbull, *Answers to written questions taken on notice* (received 1 October 2018).

19 Correspondence to the Hon Malcolm Turnbull, 6 December 2018.

-
- Chapter 5 provides an overview of the Auditor-General's performance audit of the award of the grant to the Foundation; and
 - Chapter 6 sets out the committee's views and recommendations.

Acknowledgements

1.25 The committee thanks all of the individuals, organisations, and government departments and agencies that contributed to the inquiry.

Overview of the Great Barrier Reef 2050 Partnership Program

1.26 On 29 April 2018, the then Prime Minister, the Hon Malcolm Turnbull MP, announced record Commonwealth funding of more than \$500 million 'to protect the reef, secure its viability and [safeguard] the 64 000 jobs that rely on the Reef'.²⁰ Mr Turnbull stated that these measures would 'accelerate the delivery' of activities under the Reef 2050 Long-Term Sustainability Plan (Reef 2050 Plan). The Reef 2050 Plan is a collaborative framework between the Commonwealth and Queensland Governments for protecting and managing the Reef, which has been in operation since March 2015.²¹

1.27 The announcement of 29 April 2018 outlined that this funding would include a grant of \$443.8 million to establish a Foundation Partnership, under which the Foundation would disburse funding to other organisations for Reef-related programs.²² In addition, increased funding of \$56 million was provided to GBRMPA 'to expand environmental management and compliance operations on the Reef and to support this significant additional investment in the Reef'.²³

1.28 Regarding the Foundation Partnership, Mr Turnbull stated that the \$444 million grant would be apportioned to programs in the following areas:

- \$201 million to address water quality by further improving farming practices, reducing fertiliser use and increasing the uptake of new technology and land management practices.
- \$100 million to harness the best science in the implementation reef restoration and adaptation and to fund innovative projects that support Reef resilience.

20 The Hon Malcolm Turnbull MP, Prime Minister; The Hon Julie Bishop MP, Minister for Finance; The Hon Josh Frydenberg MP, Minister for the Environment and Energy; The Hon Melissa Price MP, Assistant Minister for the Environment, 'Record investment in the Great Barrier Reef to drive jobs', *Joint Media Release*, 29 April 2018.

21 See chapter 2 for more detail on the Reef 2050 Plan.

22 Note: rounded up to \$444 million in this report except in this chapter, below, when discussing the announcement of the Partnership and specific figures in the 2018–19 Commonwealth Budget.

23 The Hon Malcolm Turnbull MP et al, 'Record investment in the Great Barrier Reef to drive jobs', *Joint Media Release*, 29 April 2018.

- \$58 million to expand efforts in the fight against the coral-eating crown-of-thorns starfish.
- \$45 million to support the other work of the Foundation, in particular increasing community engagement in reef protection through activities such as supporting Indigenous traditional knowledge for sea country management, coastal clean-up days and awareness raising activities.
- \$40 million to improve Reef health monitoring and reporting that tracks progress and informs better management.²⁴

1.29 The proposed \$444 million grant was described as a 'ground-breaking...agreement to tackle crown-of-thorns starfish, reduce pollution into the Reef and mitigate the impacts of climate change'. The media release also stated that the Foundation was a 'highly respected philanthropic organisation [with] a strong fundraising track record', and would continue to 'seek corporate contributions to further enhance this work'.²⁵

1.30 More detail on this funding was provided in the 2018–19 Budget, handed down by the then Treasurer, the Hon Scott Morrison MP, on 8 May 2018. The Great Barrier Reef 2050 Partnership Program Budget measure outlined \$535.8 million total funding for the following measures:

- funding of \$443.8 million delivered in 2017–18 for a partnership agreement with the Foundation; and
- funding of \$56 million over five years to the department and GBRMPA to expand environmental management and compliance operations related to the Foundation Partnership, including: ongoing funding of \$13.4 million across the six years of the program for the department (commencing with \$10.1 million in 2018–19); funding of \$42.7 for GBRMPA from 2019–20 to 2023–24.²⁶

1.31 There was no grant-related funding for the Australian Institute of Marine Science (AIMS).

1.32 The totality of this funding is set out in table 1.1.²⁷

24 The Hon Malcolm Turnbull MP et al, 'Record investment in the Great Barrier Reef to drive jobs', *Joint Media Release*, 29 April 2018.

25 The Hon Malcolm Turnbull MP et al, 'Record investment in the Great Barrier Reef to drive jobs', *Joint Media Release*, 29 April 2018.

26 Commonwealth Budget 2018–19, *Budget Paper No. 2: Budget Measures 2018–19*, 8 May 2018, p. 98.

27 Department of the Environment and Energy, *Portfolio Supplementary Additional Estimates Statements 2017–18: Environment and Energy Portfolio*, May 2018, p. 2; *Portfolio Budget Statements 2018–19: Budget Related Paper No. 1.6—Environment and Energy Portfolio*, May 2018, pp. 28 and 239.

Table 1.1: Funding for the Partnership Program, 2017–18 to 2023–24 (\$ million)

	2017–18	2018–19	2019–20	2020–21	2021–22	2022–23	2023–24
Department of the Environment and Energy	443.8	10.1	0.7	0.5	0.5	0.6	1.0
GBRMPA	-	-	3.9	7.8	10.6	10.2	10.2
Australian Institute of Marine Science	-	-	-	-	-	-	-
Total	443.8	10.1	4.7	8.3	11.1	10.8	11.2

Note: Figures may not add due to rounding.

Sources: Department of the Environment and Energy, *Portfolio Supplementary Additional Estimates Statements 2017–18: Environment and Energy Portfolio*, May 2018, p. 2; *Portfolio Budget Statements 2018–19: Budget Related Paper No. 1.6—Environment and Energy Portfolio*, May 2018, pp. 28 and 239.

Stakeholders in the Reef management sector

1.33 This section provides a general overview of the Commonwealth and Queensland Governments' approach to the management of the Reef, as well as some background information on organisations working in the Reef-related sector. This provides important context for the following chapter, which discusses the Foundation's history and capacity in program delivery, and the Government's decision to grant funding to the Foundation.

The Commonwealth–Queensland Reef 2050 Long-Term Sustainability Plan

1.34 In 2015, the Commonwealth and Queensland Governments released the Reef 2050 Plan (the Plan), a Commonwealth-state collaborative framework for the management of the Reef. The department outlined the nature of the Plan in its submission:

The Plan includes clear actions to address threats and to build the resilience of the Great Barrier Reef in the face of a changing climate. The actions are structured around seven overarching themes—ecosystem health, biodiversity, heritage, water quality, community benefits, economic benefits and governance. These themes reflect the priority areas for action identified by governments and partners to protect the World Heritage values of the Great Barrier Reef.²⁸

1.35 The department went on to note that the Reef 2050 Plan has been endorsed, and its implementation commended, by UNESCO's World Heritage Committee. In addition, the Reef 2050 Plan:

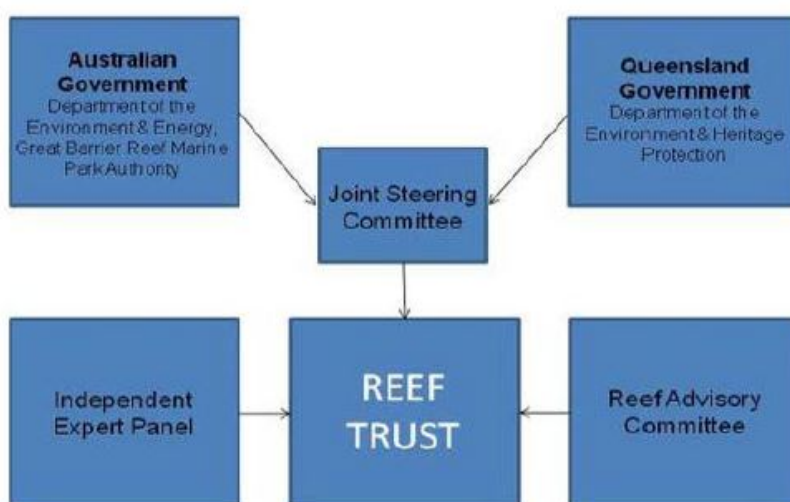
28 Department of the Environment and Energy, *Submission 7*, p. 3.

...builds on the strong, long-standing commitment by the Australian and Queensland governments to protect and manage the Reef. It incorporates the knowledge and expertise of scientists, communities, Traditional Owners, industry and non-government organisations. Successful implementation of the Reef 2050 Plan relies on ongoing productive partnerships between all parties.²⁹

1.36 The Plan is overseen by a Ministerial Forum of Commonwealth and Queensland Government ministers. It is supported by two advisory bodies: the Reef 2050 Independent Expert Panel, which provides scientific and expert advice; and the Reef 2050 Advisory Committee, to give industry and community perspective of the Plan's implementation.³⁰

1.37 An outline of the governance framework for the Reef 2050 Plan is shown at Figure 1.2.

Figure 1.2: Reef Trust governance



Source: Treasury FOI 2325, Document 2, p. 2.

1.38 Following mass coral bleaching events in 2016 and 2017, the Ministerial Forum brought the mid-term review of the Plan forward to mid-2018. This review updated the 2050 Plan with some immediate actions to be undertaken before 2020, which also reflect the findings of GBRMPA's *Blueprint for Resilience* released in December 2017.³¹ The review did not significantly alter the overarching targets, actions or outcomes of the Plan, although it did emphasise the increasing need to focus on climate change as a cause of stress and damage to the Reef:

29 Department of the Environment and Energy, *Submission 7*, p. 3.

30 Department of the Environment and Energy, *Submission 7*, p. 3.

31 Department of the Environment and Energy, *Submission 7*, p. 4.

There is a stronger focus on climate change as a key pressure. The Plan cites linkages to international efforts and domestic plans and strategies to mitigate and adapt to climate change, such as the Paris Agreement and the Queensland Climate Transition Strategy.³²

1.39 The Plan's implementation framework has seven overarching themes: ecosystem health; biodiversity; heritage; water quality; community benefits; economic benefits; and governance. These 'reflect the priority areas for action identified by governments and partners'.³³

1.40 The department submitted that the successful implementation of the Plan relies on collaboration and partnerships between a range of stakeholders, including Commonwealth and state government agencies, local governments, Traditional Owners, National Resource Management (NRM) organisations, researchers, on-ground service providers, and the wider community.³⁴

The Reef Trust

1.41 Partnerships under the Plan are funded through the Reef Trust. Described as one of the Commonwealth Government's key initiatives to implement the Plan, the Reef Trust was established in 2014–15 with funding of \$39.9 million over four years. The first phase commenced in 2014 with a small number of projects focussing on improving water quality and biodiversity. A further \$100 million was provided in the 2015–16 Budget over four years. In the 2016–17 Budget, an additional \$70 million was provided over the three years from 2019–20.³⁵

1.42 The department noted that the \$210 million allocated up to 2016–17 'complements and builds on the existing Australian Government investment of over \$160 million for a range of activities focussed on addressing the threat of declining water quality, ecosystem rehabilitation and species protection'.³⁶

1.43 With the additional funding allocated in April 2018 (including the \$444 million partnership with the Great Barrier Reef Foundation), total

32 Department of the Environment and Energy, 'About the updated Reef 2050 Long-Term Sustainability Plan', www.environment.gov.au/marine/gbr/publications/reef-2050-long-term-sustainability-plan-2018 (accessed 8 November 2018).

33 Commonwealth of Australia, *Reef 2050 Long-Term Sustainability Plan*, 2015, p. 33.

34 Department of the Environment and Energy, *Submission 7*, p. 6.

35 Department of the Environment and Energy, 'The Reef Trust', www.environment.gov.au/marine/gbr/publications/reef-trust-factsheet (accessed 8 October 2018).

36 Department of the Environment and Energy, 'Reef Trust—Frequently asked questions', www.environment.gov.au/system/files/pages/e40fbc03.../reef-trust-faqs.pdf (accessed 8 November 2018).

Commonwealth Government investment is approximately \$700 million through the Reef Trust.³⁷

1.44 The Reef Trust was also designed to draw further investment from other sources, including private investment and philanthropic donations:

The Reef Trust has been designed to consolidate investment from a variety of sources. Funding for the Reef Trust will be derived from the pooling of offset funds that target specific impacts on the Great Barrier Reef from development activities. Over time the Reef Trust will also evolve to increase its investment capacity to incorporate alternative resourcing mechanisms, such as private investment and philanthropic donations.³⁸

1.45 The department noted that 'in recent years, there has been an increasing interest from the government and the private and community sector in the role of private-public partnerships as a successful way of delivering outcomes'.³⁹

1.46 The department provided a list of partnerships delivered through the Reef Trust. Commonwealth funding for these partnerships ranges from \$4.5 million to \$7 million supplemented by funding from other sources, to deliver on-ground projects:

- \$7 million from the Australian Government matched with \$7 million raised by Greening Australia to repair over 700 hectares of priority wetlands and coastal ecosystems;
- \$4.5 million from the Australian Government to support an estimated \$12.8 million investment from sugar milling company, MSF Sugar, to assist sugar-cane farmers to improve on-farm nutrient management and thereby improve the quality of water entering the Reef;
- \$5 million from the Australian Government, matched with up to \$5 million raised by the Great Barrier Reef Foundation, to restore and conserve priority island ecosystems; and
- \$5 million from the Australian Government, supplemented by \$2.1 million from the Queensland Government, to trial enhanced efficiency fertilisers as a means to better control the release of nutrients to match crop requirements, potentially increasing cane yields and farm productivity and profitability.⁴⁰

1.47 The department also provided an overview of the \$444 million Foundation Partnership, which will be delivered through the Reef Trust. This will be discussed in depth later in this report.

37 Department of the Environment and Energy, *Submission 7*, p. 7.

38 Department of Environment and Energy, 'Reef Trust—Frequently asked questions', www.environment.gov.au/system/files/pages/e40fbc03.../reef-trust-faqs.pdf (accessed 8 November 2018).

39 Department of the Environment and Energy, *Submission 7*, p. 7.

40 Department of the Environment and Energy, *Submission 7*, pp. 7–8.

Organisations working in the Reef-related sector

1.48 The Reef-related sector is diverse, and has a number of organisations working in research, management and program delivery. It includes Commonwealth and state government agencies as well as non-government organisations, some of which are outlined here.

1.49 GBRMPA is the Commonwealth agency that is the lead manager of the Reef, reporting to the Minister for the Environment. Its website outlines its purpose, governance and activities:

For more than 40 years, we've been managing this great natural icon to ensure it's protected for the future.

Our work is guided by:

- The *Great Barrier Reef Marine Park Act 1975*
- Our Corporate Plan
- Australian Government policies
- Portfolio Budget Statement
- *The Great Barrier Reef Outlook Report*
- and government priorities.

We use the best available scientific information to guide us, and engage with experts and the community. This includes four Reef Advisory Committees and 12 Local Marine Advisory Committees.

Out on the water, field management and enforcement of zoning rules is carried out with Queensland and Australian Government agencies on our behalf.

We provide a number of other services to protect and manage the Reef ranging from issuing permits, providing advice on marine management, and operating our education centre Reef HQ Great Barrier Reef Aquarium.⁴¹

1.50 AIMS is the Commonwealth's tropical marine research agency. Its website states that:

We play a pivotal role in providing large-scale, long-term and world-class research that helps governments, industry and the wider community to make informed decisions about the management of Australia's marine estate.⁴²

41 GBRMPA, 'About us', www.gbrmpa.gov.au/about-us/about-us (accessed 8 November 2018).

42 AIMS, 'About AIMS', www.aims.gov.au/docs/about/about.html (accessed 8 November 2018).

1.51 AIMS also monitors conditions and trends in the marine environment, data collection and modelling to support policy decision making, and also develops a broad range of relevant technologies.⁴³

1.52 The Commonwealth Scientific and Industrial Research Organisation (CSIRO) is an independent Commonwealth Government agency responsible for undertaking scientific research. It has a 'long history of working with partners in the Great Barrier Reef World Heritage Area and its adjacent catchments, spanning the full continuum from inland to outer reef'. This includes its current work with AIMS on delivering components of the Reef 2050 Plan through developing a scoping study informing the development of the Reef Restoration and Adaptation Program (RRAP).⁴⁴

1.53 AIMS, CSIRO and GBRMPA are all partners in the RRAP in collaboration with other non-government partners, including the University of Queensland, Queensland University of Technology, and the Foundation.⁴⁵ This program aims to 'create a suite of innovative and targeted measures that can be used for large-scale reef restoration and adaptation, to help the Reef help itself'.⁴⁶

1.54 In 2018, the Commonwealth provided \$6 million to establish a scoping and 'concept feasibility phase' for the RRAP, which will inform the spending of a further \$100 million allocated by the Government for reef resilience and adaptation science from 2019.⁴⁷

1.55 The Queensland Government has a number of portfolio agencies working on Reef protection and management.⁴⁸

1.56 A number of non-government charity organisations centre on the Reef. In addition to the Foundation, the Australian Marine Conservation Society (AMCS), the Reef and Rainforest Centre (RRAC), Reef Check Australia, the World Wildlife Fund (WWF), and the Australian Conservation Foundation (ACF) all have interests in the Reef.

43 AIMS, 'About AIMS', www.aims.gov.au/docs/about/about.html (accessed 8 November 2018).

44 CSIRO, 'The Great Barrier Reef—looking towards 2050 and beyond', www.csiro.au/en/Showcase/Great-Barrier-Reef (accessed 8 November 2018).

45 Note, a number of other partner organisations are participating in a series of sub-projects of the RRAP, which are all listed at RRAP, 'About us', www.gbrrestoration.org/about-us (accessed 8 November 2018).

46 RRAP, 'The Reef Restoration and Adaptation Program', www.gbrrestoration.org/the-program (accessed 8 November 2018).

47 RRAP, 'The Reef Restoration and Adaptation Program', www.gbrrestoration.org/the-program (accessed 8 November 2018).

48 GBRMPA, 'Queensland government agencies', www.gbrmpa.gov.au/our-partners/queensland-government-agencies (accessed 8 November 2018).

2017–18 Government measures for Reef-related activities

1.57 On 22 January 2018, the Government announced a \$60 million investment to drive research and development for Reef-related activities:

This \$60 million funding boost over 18 months will set in motion a major research and development (R&D) program for coral reef restoration. \$6 million will go to the Australian Institute of Marine Science and the CSIRO to scope and design this program over the next 18 months, including looking at how best to leverage private investment.

We will also ramp-up actions to help the Reef right now:

- \$10.4 million for an all-out assault on coral-eating crown-of-thorns starfish. This will allow the Great Barrier Reef Marine Park Authority to increase the number of vessels targeting starfish from three to eight
- \$36.6 million to further reduce pollution from water entering the Reef. This builds on our success with farmers reducing soil erosion, improving on-farm nutrient management and restoring coastal and riparian vegetation in the Reef catchments
- \$4.9 million to put more field officers on the water, improving compliance, and providing early warning of further bleaching and delivering more reef and island management interventions.⁴⁹

1.58 This suite of measures included funding for the RRAP, as outlined above.

Australian National Audit Office audit of the Partnership

1.59 The Australian National Audit Office (ANAO) identified the design of the Partnership as a potential audit under its 2018–19 work program. The ANAO stated that an 'audit of the design of the partnership model would include examining governance arrangements to support the effective implementation of programs covered by the partnership'.⁵⁰

1.60 On 13 August 2018, Mr Finn Pratt AO PSM, Secretary of the department wrote to the Auditor-General, Mr Grant Hehir, to request that an audit be undertaken of the Government's Foundation Partnership. Mr Pratt commented that 'given the intense public and media interest over the last few weeks, I consider such an audit has

49 The Hon Malcolm Turnbull MP, Prime Minister, Senator the Hon Michaelia Cash, Minister for Jobs and Innovation, and the Hon Josh Frydenberg MP, Minister for the Environment and Energy, 'Investing in the Future of Our Great Barrier Reef', *Joint Media Release*, 22 January 2018, p. 1.

50 See Australian National Audit Office, 'Design of the Great Barrier Reef Foundation partnership: Potential audit 2018–19', www.anao.gov.au/work/performance-audit/design-great-barrier-reef-foundation-partnership (accessed 15 November 2018).

become a priority and ask that you consider approving it going ahead and starting as soon as practicable'.⁵¹

1.61 Mr Pratt noted that this ANAO audit:

...would examine the Department of the Environment and Energy's design of the Australian Government's \$444 million partnership with the Great Barrier Reef Foundation to deliver water quality improvements, crown of thorn starfish control, science for reef restoration, increased community engagement and improved monitoring...[as well as that] an audit of the design of the partnership model would include examining governance arrangements to support the effective implementation of programs covered by the partnership.⁵²

1.62 On 24 August 2018, the Auditor-General advised the committee that he had 'decided to conduct a performance audit of the Award of a Grant to the Great Barrier Reef Foundation'. The ANAO proposed to examine the following criteria:

1. Was appropriate departmental advice provided to Ministers to inform the decision to establish a tied partnership fund with the Great Barrier Reef Foundation?
2. Were comprehensive program guidelines developed that complied with the requirements of the Commonwealth Grants Rules and Guidelines?
3. Was the decision to award a grant to the Foundation informed by written departmental advice that met the content requirements of the Commonwealth Grants Rules and Guidelines?
4. Was there appropriate scrutiny of the Foundation's proposal to inform departmental advice on whether a grant should be awarded, and the subsequent development of a grant agreement?⁵³

1.63 The Auditor-General's report on the award of the grant to the Foundation was presented to the Parliament on 16 January 2019.⁵⁴ The findings are discussed in chapter 5 of this report.

51 Correspondence from Mr Finn Pratt AO PSM, Secretary of the Department of the Environment and Energy, to Mr Grant Hehir, Auditor-General, 13 August 2018, www.environment.gov.au/system/files/news/5476deb7-07d6-4674-ad59-781561a1945e/files/secretarys-letter-national-audit-office.pdf (accessed 19 November 2018).

52 Correspondence from Mr Finn Pratt AO PSM, Secretary of the Department of the Environment and Energy, to Mr Grant Hehir, Auditor-General, 13 August 2018, www.environment.gov.au/system/files/news/5476deb7-07d6-4674-ad59-781561a1945e/files/secretarys-letter-national-audit-office.pdf (accessed 19 November 2018).

53 Correspondence from Mr Grant Hehir, Auditor General, Australian National Audit Office, received 24 August 2018 pp. 1–2.

54 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19 (16 January 2019), www.anao.gov.au/work/performance-audit/award-4433-million-grant-great-barrier-reef-foundation (accessed 22 January 2019).

1.64 The Auditor-General has also advised that:

The ANAO will also consider undertaking a second audit relating to the partnership, commencing later in 2019–20. This is because, while a grant agreement has been signed, and all funds paid, key aspects of the design of the partnership have not yet been finalised.⁵⁵

55 Correspondence from Mr Grant Hehir, Auditor-General, Australian National Audit Office, received 24 August 2018, p. 1.

Chapter 2

The Great Barrier Reef Foundation and the \$444 million Foundation Partnership

2.1 This chapter provides an overview of the Foundation, including its history, funding, activities and governance. It then considers how the Foundation was approached by the Commonwealth Government on 9 April 2018 to establish a \$444 million partnership and the process, including setting out how the basic terms of the agreement were negotiated and agreed over the following weeks.

2.2 This chapter then provides a summary of how the \$444 million Partnership Agreement was finalised between the Commonwealth and the Foundation, before looking at the terms and conditions of the agreement itself.

The Great Barrier Reef Foundation

2.3 The Foundation is a public company limited by guarantee that is a registered charity with the Australian Charities and Not-for-profits Commission (ACNC). According to the Foundation's website, it is an organisation that:

...exists to ensure a Great Barrier Reef for future generations. We seek out the solutions and innovations that will also benefit coral reefs globally as they tackle the same threats and challenges facing the world's largest coral reef.

We are the lead charity dedicated to protecting the Great Barrier Reef through funding solutions grounded in science, technology, engineering and on-ground action to ensure their long-term conservation.¹

2.4 On its origins and work, the Foundation's website states that it:

...was established in 1999 following the first mass coral bleaching of the Great Barrier Reef in 1998, and in alignment with the United Nations World Heritage Convention encouraging countries with world heritage sites to establish a national foundation with the purpose of inviting donations for their protection.

We lead the collaboration of business, science, government and philanthropy—groups who would not otherwise come together—for the benefit of the Reef. Our success is due to the quality of institutions and

1 Great Barrier Reef Foundation, 'Championing real solutions to the threats facing Australia's great natural wonder and coral reefs globally', www.barrierreef.org/the-foundation (accessed 11 October 2018).

people we bring together—harnessing advances in science, technology and industry to ensure a future for this global treasure.²

2.5 Ms Anna Marsden, Managing Director of the Foundation, told the committee that Sir Sydney Schubert, who was a founding director of the Great Barrier Reef Marine Park Authority (GBRMPA), was the instigator of the organisation. She suggested that Sir Schubert had 'called a meeting of business people and the heads of various marine institutions...in an airport lounge' to form a charity to raise money and drive collaboration in the Reef sector.³

2.6 Following the committee's hearing of 30 July 2018, the Foundation provided further details on its origins:

In November 1999, the Great Barrier Reef Research Foundation was registered as a company with the following founding directors: Sir Sydney Schubert, Sir Ian Mcfarlane, John B Reid and David Windsor...

It is our understanding that Sir Sydney Schubert's idea for forming the Foundation was to create a charity to bring science and business together with a common purpose of protecting the Great Barrier Reef.⁴

Governance

2.7 The Foundation is an independent entity registered with and regulated by the ACNC and governed by a Board of Directors. Its website states:

Our Board comprises representatives of Australian business, science and philanthropy, reflecting the charter to bring all sectors together for the benefit of the Great Barrier Reef.

The Board oversee the role of the Managing Director and has the job of ensuring all activities are directed towards securing the funds needed to support research to protect and restore the Great Barrier Reef. And importantly, these research outcomes must help and inform the Reef managers.⁵

2.8 The board is currently chaired by Dr John Schubert AO, who was appointed chairman in 2004. Positions previously held by Dr Schubert include Chairman and Managing Director of Esso Australia, Managing Director and Chief Executive Officer

2 Great Barrier Reef Foundation, 'Championing real solutions to the threats facing Australia's great natural wonder and coral reefs globally', www.barrierreef.org/the-foundation (accessed 11 October 2018).

3 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 57.

4 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, correspondence received 1 August 2018, p. 1.

5 A list of the board members can be found at www.barrierreef.org/the-foundation/our-governance (accessed 25 October 2018).

of Pioneer International Limited, President of the Business Council of Australia, and Chairman of the Commonwealth Bank of Australia.⁶

2.9 The Foundation has established an International Science Advisory Committee (ISAC). The ISAC is an advisory body that assists the Foundation with 'the selection, development and implementation of significant research projects with the Foundation's partners'. Members of ISAC include representatives from GBRMPA, the Australian Institute of Marine Science (AIMS), University of Queensland, James Cook University and CSIRO. ISAC is currently chaired by Professor Paul Greenfield AO.⁷

2.10 The Foundation also has established a Chairman's Panel (the Panel). This is a group of chief executives and chairs of Australian and global companies. According to the Foundation, the Panel 'offers the opportunity for employees and stakeholders of companies involved in the Chairman's Panel to learn about the Reef and the efforts to protect it'. The Foundation benefits from this arrangement through the 'personal and organisational expertise' provided by Panel members, as well as the provision of 'infrastructure, skills and resources of member companies'.⁸ Members of the Panel pay an annual membership fee of \$20 000.⁹

2.11 Corporate partners also provide support to the Foundation by providing a range of services without charge. In 2017, pro bono services valued at around \$830 000 were provided to the Foundation.¹⁰

2.12 The committee understands that the Foundation sets aside around 47 per cent of the membership fee paid by members of the Chairman's Panel for events for its members and scientists, including retreats at luxury resorts. The Foundation provided information on the role of the Panel and stated it has no influence on the selection or oversight of Foundation activities, which is the responsibility of the ISAC.¹¹

6 Dr Schubert is also the Chairman of Garvan Institute of Medical Research. See www.barrierreef.org/the-foundation/our-governance/john-m-schubert-ao (accessed 21 October 2018). Note: Dr Schubert stated that he is not a relation of the founder of the Foundation, Sir Sydney Schubert. See *Committee Hansard*, 18 September 2018, p. 35.

7 Great Barrier Reef Foundation, *International Scientific Advisory Committee (ISAC)*, www.barrierreef.org/the-foundation/our-governance/isac (accessed 6 November 2018).

8 Great Barrier Reef Foundation, *Chairman's Panel*, www.barrierreef.org/our-partners/chairmans-panel (accessed 6 November 2018).

9 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 42.

10 Services received by the Foundation on a pro bono basis include accounting, auditing, legal, advertising, branding, consulting, accommodating, creative, web design and IT services. Great Barrier Reef Foundation, *Annual report for the year ended 31 December 2017*, p. 2.

11 Great Barrier Reef Foundation, *Answers to questions taken on notice, public hearing, Canberra, 18 September 2018* (received 4 October 2018), p. 3; *Answers to questions taken on notice, public hearing, Brisbane, 30 July 2018* (received 9 August 2018), p. 2.

2.13 As part of the Partnership Agreement, the Foundation established the Partnership Management Committee (PMC) to oversee the \$444 million grant, including its investment and oversight of its progress over the six-year funding term. The PMC is chaired by Mr John Gunn AO, the former chair of AIMS, and Mr Steven Sargent, 'a leading executive from the Australian corporate sector where he has held senior roles in mining technology, energy and finance'. Other members of the PMC are:

...internationally-renowned and respected marine scientist Prof. Ove Hoegh-Guldberg, former Queensland Chief Scientist Dr Geoff Garrett AO, former Vice-Chancellor of the University of Queensland Dr Paul Greenfield AO, Far North Queensland tourism expert Wendy Morris, distinguished Yuku Baja Muliku woman from Cape York Cr Larissa Hale, Executive Director of Projects and Partnerships at the Great Barrier Reef Foundation Theresa Fyffe, Australian Government representative from the Department of Environment and Energy Deb Callister and Queensland Government representative from the Office of the Great Barrier Reef, Elisa Nichols.¹²

Budget and fundraising activities

2.14 The Foundation's most recent annual report states that, in the 2017 calendar year, it had revenue of \$7.7 million and distributed around \$5.2 million in funding for Reef projects, and had an operating deficit of \$1.3 million. The annual report also indicated that the Foundation had six full-time employees, and five part-time employees.¹³

2.15 According to the Foundation, it has raised \$90 million since it was established, as follows:

- \$58.87 million from the corporate and philanthropic contributions;
- \$3.28 million from other sources such as interest and research partners;
- \$4.74 million from the corporate sector for pro bono and in kind services; and

12 Great Barrier Reef Foundation, *Partnership Management Committee*, www.barrierreef.org/latest/news/expert-committee-to-oversee-reef-partnership (accessed 26 November 2018).

13 Great Barrier Reef Foundation, *Annual report for the year ended 31 December 2017*, pp. 1, 2 and 10.

- \$29.71 million from government sources, including \$22.35 million from the Australian Government and \$7.36 million from the Queensland Government.¹⁴

2.16 The Foundation informed the committee in response to a question on notice, that Board members have contributed a total of \$1 337 200 in their personal capacities.¹⁵

2.17 The committee understands that the Foundation has received three Commonwealth grants for projects, as outlined in the department's submission:

- \$12.5 million for the Resilient Reefs Successfully Adapting to Climate Change research program (2013–14 to 2016–17);
- \$2.3 million for the e-Reefs modelling and reporting tool (2016–17 to 2019–20); and
- \$5 million for restoration and conservation of Reef Islands (2018–19 to 2022–23) (approved but not yet contracted).¹⁶

2.18 On its administration costs, the Foundation stated that it 'strives to keep our administration and fundraising costs low—80 cents in every dollar goes to Reef projects'.¹⁷

Work undertaken by the Foundation

2.19 The Foundation told the committee that its projects to research and manage the Reef range from micro-scale activities (\$10 000) to large-scale projects up to \$35 million. These 'cover a range of activities, including foundational scientific research, the development of tools for reef managers, and on-ground conservation activities'.¹⁸

14 Great Barrier Reef Foundation, 'Media Statement–Fundraising' *Media Release*, 16 August 2018, www.barrierreef.org/latest/news/media-statement-fundraising-breakdown (accessed 25 October 2018). The Foundation provided a breakdown of fundraising that indicated 64 per cent came from corporate or private philanthropy, 32 per cent from Government funding, and the remainder from other sources. See Great Barrier Reef Foundation, *Answers to questions taken on notice, public hearing, Brisbane, 30 July 2018* (received 9 August 2018) p. 2.

15 Great Barrier Reef Foundation, *Answers to questions taken on notice, public hearing, Brisbane, 30 July 2018* (received 9 August 2018), p. 2.

16 Department of the Environment and Energy, *Submission 7, Supplementary Submission*, pp. 5–6.

17 Great Barrier Reef Foundation, *Answers to questions taken on notice, public hearing, Brisbane, 30 July 2018* (received 9 August 2018), p. 1.

18 Great Barrier Reef Foundation, *Submission 1*, p. 5; Commonwealth Government, 'Great Barrier Reef Partnerships for the future', www.environment.gov.au/system/files/resources/0e17f346-a19f-411d-8a60-59bd2b0fee27/files/reef-partnerships-future-new.pdf (accessed 21 June 2018), p. 4.

2.20 The 2017 Annual Report outlines a number of new projects for the Foundation clustered under the themes of 'innovation, resilience and restoration'. This included the establishment of a project for 'Reef Restoration and Adaptation':

There was unanimous support through the International Science Advisory Committee (ISAC), the Chairman's Panel, our board and our team that the flagship project for the Foundation for the next decade will centre around Reef Restoration and Adaptation. From a small idea presented at a Chairman's Panel event in 2016, this concept has evolved into what will become the largest and most ambitious marine science and engineering challenge ever undertaken in Australia. The goal is simple: to rebuild the reefs we have lost and to build them stronger in the process. Significant work was undertaken in 2017 to socialise this concept to leaders across government, research and industry which has led to a fully funded definition phase commencing in 2018.¹⁹

2.21 The 2017 Annual Report also commented on a number of smaller pilot projects. The report described these projects in the following terms:

It remains a constant message from our ISAC members to always be open to bright, new, out of the box thinking, and to have the courage to invest in these riskier projects because any one of them could hold the turning point in its process and solution. Even at pilot stage, projects such as RangerBot and Larval Reseeding have changed the landscape and provided a step change in reef management.²⁰

2.22 The Director's report for 2017 drew attention to the way in which the Reef is discussed and stated that it had reached 'a turning point' and that the Foundation would work in a number of public advocacy spaces to disseminate not only the challenges facing the reef, but also the positive benefits that could come from scientific research and conservation actions. The report stated:

The loss of coral and the negative impacts of water quality and climate change have been well documented—everyone has heard the bad news. And while the seriousness of these threats cannot be denied, there is growing evidence that material improvements in the outlook of species and ecosystems are possible through a combination of scientific research and conservation actions. There is good news to share alongside the bad. However when people don't know or hear enough about the good news, we are at risk of the world seeing the challenge of saving the Reef as being too hard and therefore switching off—akin to a 'learned helplessness'.

We recognise the Foundation has an increasingly powerful role to play as a trusted, independent voice for the Reef. To bring hope to the outlook for the Reef, to tell the world that Australia does care about the Reef and that Australians are doing everything they can to save it.²¹

19 Great Barrier Reef Foundation, *Annual Report for the year ended 31 December 2017*, p. 1.

20 Great Barrier Reef Foundation, *Annual Report for the year ended 31 December 2017*, p. 1.

21 Great Barrier Reef Foundation, *Annual Report for the year ended 31 December 2017*, p. 1.

Approval of \$5 million funding for the Foundation in early April 2018

2.23 As noted above, the Foundation has received Commonwealth grants. As part of the Reef Trust Phase VI Investment, the Foundation sought a grant of \$5 million. Documents released by the department under FOI requests include a brief signed on 6 April 2018 by Minister for the Environment approving the grant. The approval provided funding to the Foundation 'for a co-investment project from 2018–19 to 2022–23 to rehabilitate and conserve Reef islands, as an ad-hoc grant from the Reef Trust Special Account'.²²

2.24 Supporting documents for this brief indicate that the Foundation would 'match the Reef Trust contribution of up to \$5 million...over five years, with funds raised from philanthropic and private donors'. This would form part of the Foundation's Reef Island Refuge Initiative, which it was undertaking in partnership with the Queensland Government.²³

2.25 According to the brief, this funding was awarded following the success of the \$7.95 million Raine Island rehabilitation project delivered by the Foundation. The new grant would enable 'on-ground restoration and conservation works for terrestrial or main island ecosystems, commencing in 2018–19', focussing on particular islands identified by stakeholders as of the 'highest ecological value/greatest need to target'.²⁴

2.26 The brief also notes that the sensitivities and risks of investing in projects with the Foundation were low, as it had 'a successful track record for implementation of Reef projects [and is] an experienced fundraiser of private a philanthropic donations'.²⁵

2.27 The brief is supported by attachments, including a 12-page departmental proposal for the project, an eight-page outline of guidelines for the grant, and a four-page project assessment.²⁶ Attachment D is a one-page 'Justification for use of non-competitive grants process', which calls the project an 'Island Restoration Partnership'. This cites a number of positive elements of the Foundation's track record, particularly that it is the 'only current provider currently capable of delivering this grant funded activity and able to leverage a significant co-contribution to the project', and that the grant met all *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and Commonwealth grant requirements.²⁷

22 Department of the Environment and Energy, FOI 180514, Document 3, p. 1.

23 Department of the Environment and Energy, FOI 180514, Document 3, p. 2.

24 Department of the Environment and Energy, FOI 180514, Document 3, p. 2.

25 Department of the Environment and Energy, FOI 180514, Document 3, p. 4.

26 Department of the Environment and Energy, FOI 180514, Document 3, Attachments A–C.

27 Department of the Environment and Energy, FOI 180514, Document 3, Attachment D, p. 1.

Positive reputation of the Foundation

2.28 In evidence received by the committee, the Foundation was recognised as a significant organisation working in the Reef-related sector, even by some stakeholders who disagreed with the approach adopted in the Foundation Partnership.

2.29 While noting it did not have the staffing or capacity of organisations such as GBRMPA, the Australian Coral Reef Society stated that the Foundation has 'a good record of fundraising for the reef and of corporate engagement, and it has an expert scientific panel of sound repute'.²⁸

2.30 Cape York Regional Organisations (CYROs) noted the Foundation's good reputation and work. The CYROs considered that it had the 'proficiency and capacity to deliver components of the Reef 2050 Plan', and supported Commonwealth funding for the Foundation Partnership.²⁹

2.31 Others noted that the Foundation had the capability to expand its capacity, develop due processes to ensure rigour of its funding decision, and administer Commonwealth funding effectively while attracting private investment in the Reef.³⁰

The approach to the Foundation for the \$444 million Partnership

2.32 It is clear from the evidence received that the Foundation itself was unaware of the proposal for a \$444 million Partnership until the meeting in Sydney on 9 April 2018 with the then Prime Minister and then Minister for the Environment. The department summarised this meeting as follows:

On 9 April 2018, following approval from the Expenditure Review Committee, the Foundation was approached to ascertain its interest in establishing the Partnership. There was a meeting between Prime Minister Turnbull, Minister Frydenberg and Dr John Schubert, Chair of the Foundation. At this meeting, Dr Schubert confirmed the Foundation's interest in developing the partnership. The partnership offer was conditional on the approval of the grant under the Commonwealth financial framework including further due diligence assessment and the negotiation of a satisfactory Grant Agreement.³¹

2.33 The Foundation confirmed that it had not been aware of the proposal to award it a \$444 million grant before this meeting. Ms Marsden told the committee:

28 Australian Coral Reef Society, *Submission 6*, p. 2.

29 Cape York Regional Organisations, *Submission 16*, p. 2.

30 For example, see: Australian Academy of Sciences, *Submission 14*, p. 4; AgForce Queensland Farmers Limited, *Submission 15*, p. 1; and Tourism Tropical North Queensland, *Submission 20*, p. 2.

31 Department of the Environment and Energy, *Submission 7*, Supplementary Submission Attachment B (Information statement regarding the assessment and awarding of the Reef Trust Grant to the Great Barrier Reef Foundation), p. 2.

I'd like to state for the record that the foundation did not suggest or make any application for this funding. We were first informed of this opportunity to form a partnership with Reef Trust on 9 April of this year...We were informed that there was an allocation being announced in the upcoming federal budget and that they would like to invite the foundation to form a partnership with Reef Trust to distribute these funds across five component areas of the Reef 2050 plan.

...We didn't know ahead of the meeting what it was for, but, once we were in the meeting, [the discussion of the partnership] was the sole purpose of the meeting...³²

2.34 On the unexpected nature of the grant, Ms Marsden commented to the media that the award of such significant funding was like 'winning the lottery', and that the Foundation 'didn't have much time before the announcement to be prepared for it'.³³ She provided some context to that statement at the committee's 30 July 2018 public hearing:

The way I explained it to the journalist at the time is there are moments in life when there are things you want to do, and there are moments in life when there are things you can dream of doing. For all of us who work in the reef space in the last 2½ years we've seen that we've lost half the coral on the Great Barrier Reef. It has been a very sobering, challenging time, with people struggling to deal with this and not knowing how to get out of where we are and how to get the change that's required. When someone is down and they win the lotto, suddenly they can dream and they can do the things that they dream of doing. That is how I felt, and I stand behind that. I think the reef won the lotto. It got a strong, strategic, sustained amount of funding to do some work that it desperately needs.³⁴

2.35 The Secretary of the department, Mr Finn Pratt AO PSM, confirmed that he had not been present at the meeting to discuss the Partnership Grant proposal.³⁵ He reiterated that the offer made to the Foundation on 9 April 2018 was contingent on the grant being approved under the Commonwealth financial framework, due diligence checks and the successful negotiation of the agreement itself:

This was not an unconditional offer, and was subject to (1) the grant being approved under the Commonwealth financial framework, (2) due diligence

32 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 40.

33 Peter Hannam, 'Like winning lotto': Reef Foundation minnow braces for \$444m windfall', *Sydney Morning Herald*, 13 May 2018, www.smh.com.au/environment/conservation/like-winning-lotto-reef-foundation-minnow-braces-for-444m-windfall-20180511-p4zeud.html (accessed 13 November 2018).

34 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 49.

35 Mr Finn Pratt AO PSM, Secretary, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, p. 62.

checks and (3) the parties successfully negotiating and executing a grant agreement.³⁶

Development of Collaboration Principles for the Partnership

2.36 Following the approach made by Mr Turnbull and Mr Frydenberg to the Foundation on 9 April 2018, the department and the Foundation commenced development of 'Collaboration Principles' to help guide the development of the grant. Information provided to the committee indicates that these were drafted in 'little more than a week' before they were sent to the Foundation on 22 April 2018 by the Minister. The Collaboration Principles were confirmed by the Foundation Board on the 26 April 2018.³⁷

2.37 The timeline provided to the House of Representatives by the then Minister confirms the speed at which the measure was developed following the initial meeting. The Minister noted that over the two weeks following the meeting on 9 April 2018 'the department worked with the foundation to develop the fundamental principles of the partnership, which included governance, decision-making, risk mapping, reporting, financial management and other things'.³⁸ The Minister, in his letter of 22 April to the Foundation, stated that:

I look forward to the Foundation confirming its intent to progress negotiations with a view to the parties agreeing a new grant agreement that establishes a productive partnership for the delivery of positive outcomes for our Great Barrier Reef. The formal offer of any Australian Government funds for this proposed new partnership is dependent on the parties successfully negotiating and executing that new grant agreement.³⁹

2.38 The Collaboration Principles attached to this letter are outlined in a document just over two pages long, covering the basic terms of the agreement.⁴⁰ Notably, it includes an outline of the approach to stakeholder engagement that the Foundation Partnership should adopt, as follows:

36 Mr Finn Pratt AO PSM, Secretary, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, p. 61.

37 See Mr Stephen Oxley, First Assistant Secretary, Heritage, Reef and Marine Division, Department of the Environment and Energy, *Committee Hansard*, 30 July 2018, p. 64. For the supply of these Collaboration Principles to the Foundation on 22 April, see: the Hon Josh Frydenberg MP, Minister for the Environment and Energy, *House of Representatives Hansard*, 13 August 2018, p. 6981; and Mr Finn Pratt AO PSM, Secretary, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, p. 61.

38 The Hon Josh Frydenberg MP, Minister for the Environment and Energy, *House of Representatives Hansard*, 13 August 2018, p. 6981.

39 Department of the Environment and Energy, FOI 180514, Document 17b, p. 1.

40 The basic breakdown of the \$444 million total grant is the same as announced on 20 April. The collaboration principles prefigure much of the terms of the Partnership Agreement itself, which is discussed later in this report.

2.9. Implementation of the grant will require close collaboration in the design and delivery of Reef investment activities with relevant Government agencies, key advisory bodies (e.g. Independent Expert Panel and Reef Advisory Committee), delivery partners and technical experts.

2.10. Consideration will need to be given to the interaction and roles of key advisory bodies in providing strategic advice and input into investment proposals. Arrangements will need to be practical and effective in delivering the best available scientific and expert advice. Advice will not be required to be sought from advisory bodies on individual project investments, unless the Foundation wishes to do so on a case by case basis.⁴¹

2.39 The Collaboration Principles also briefly state the risks for the Foundation Partnership:

2.11. The rapid increase in operational scale for the Foundation poses significant capacity, governance and capability challenges. The Department and GBRMPA have capacity to assist the Foundation during the start-up phase, for example the potential secondment of staff to the Foundation.

2.12. The start-up phase could potentially delay delivery of on-ground projects, leading to loss of local capacity and momentum. The Department has capacity to assist the Foundation to implement transition arrangements while organisational capacity is being increased.

2.13. Activities funded through the Foundation will include on-ground or 'in-water' works (e.g. diving) with inherent safety risks. The Foundation will be required to ensure it has appropriate arrangements to manage any WHS risks that arise from the funding activities.⁴²

2.40 On 29 April, the Government announced its funding commitment and it was included in the 2018–19 Budget on 8 May 2018. On 24 May 2018, 'consistent with the government's grant guidelines', the Minister for the Environment approved the partnership guidelines, outlining the necessary requirements to be included in the Foundation's application, which were published on the Minister's website. On 29 May 2018, the Foundation formalised its proposal.⁴³

2.41 Ms Marsden described the process by which the Foundation engaged in discussions with the department to develop the Collaboration Principles:

Following [the meeting], I had a conversation with the secretary of the department, and we convened a teleconference with assistant secretaries of the department the next day to, I guess, unpack the different components, the intent of the funding and what would be the next steps if the foundation were to accept and enter into such a partnership.

41 Department of the Environment and Energy, FOI 180514, Document 17b, Attachment A, p. 1.

42 Department of the Environment and Energy, FOI 180514, Document 17b, Attachment A, p. 1.

43 The Hon Josh Frydenberg MP, Minister for the Environment and Energy, *House of Representatives Hansard*, 13 August 2018, p. 6981.

...What happened over the subsequent week was that there were a number of conversations where we came together on a series of collaboration principles. Then, once they were determined, we brought those to our board. Once they were approved, there was an exchange of letters between the minister and the chairman which cemented the agreement to enter into a partnership.⁴⁴

Approval of the grant

2.42 The Grant Guidelines released by the department on 31 May 2018 provided that the department and the Foundation would work collaboratively to develop a Grant Funding Proposal (the proposal). The proposal informed departmental recommendations to the Minister and the development of the proposed Grant Agreement with the Foundation.⁴⁵

2.43 The Foundation provided the department with a 400-page proposal on 29 May 2018. The department concluded that the proposal met Grant Guidelines, and would be consistent with requirements for expenditure of Commonwealth funds under the PGPA Act and the Commonwealth Rules and Guidelines. The grant to the Foundation of \$443.8 million (excluding GST) was approved by Mr Frydenberg as Minister for the Environment on 20 June 2018:

...in accordance with s 71 of the PGPA Act as a one-off, ad hoc grant from the Reef Trust Special Account to the Foundation, subject to the passage of the *Appropriation Bill (No. 5) 2017–18* through Parliament.

In approving this expenditure the Minister was satisfied that the funding proposal represented a proper use (i.e. an efficient, effective, economical and ethical use) of Commonwealth funds.⁴⁶

2.44 The department noted that:

On 25 June 2018 *Appropriation Bill (No. 5) 2017–18* received Royal Assent and on 27 June 2018 the Grant Agreement between the Department and the Foundation was executed. The Grant Agreement runs from the period from 1 July 2018 until 30 June 2024.⁴⁷

44 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 40.

45 Department of the Environment and Energy, Submission 7, Supplementary Submission Attachment B (Information statement regarding the assessment and awarding of the Reef Trust Grant to the Great Barrier Reef Foundation), p. 3.

46 Department of the Environment and Energy, *Submission 7*, Supplementary Submission Attachment B (Information statement regarding the assessment and awarding of the Reef Trust Grant to the Great Barrier Reef Foundation), p. 4.

47 Department of the Environment and Energy, *Submission 7*, Supplementary Submission Attachment B (Information statement regarding the assessment and awarding of the Reef Trust Grant to the Great Barrier Reef Foundation), p. 4.

The Grant Agreement

2.45 The Grant Agreement executed on 27 June 2018 between the Commonwealth and the Foundation is available in full on the department's website, along with an Overview.⁴⁸ The Overview confirms that the objective of the Grant Agreement is to 'achieve significant, measurable improvement' in the health of the Reef, in accordance with the Reef 2050 Plan, 'underpinned by innovation, science and community engagement'. It 'requires the Foundation' to invest the following amounts on activities outlined in the Grant Agreement between 2018–19 and 2023–24:

- up to \$200 649 000 for water quality improvement activities (Schedule 3);
- up to \$57 800 000 for crown-of-thorns starfish control activities (Schedule 4);
- up to \$100 000 000 for reef restoration and adaptation science activities (Schedule 5);
- up to \$22 349 000 for Indigenous and community reef protection activities (Schedule 6); and
- up to \$40 000 000 for Reef integrated monitoring and reporting activities (Schedule 7).⁴⁹

2.46 Additionally, the Grant Agreement includes \$22.5 million for 'administration and scaling up activities', as well as allowing a 'capped amount of interest earned on the Grant funds for this purpose'.⁵⁰

2.47 The Grant Agreement stipulates that in undertaking Grant activities, the Foundation must act consistently with:

- Commonwealth administrative law, particularly the *PGPA Act (Reef Special Trust Account 2014) Determination 01*;
- Government policy, including the overarching Reef 2050 Plan, the draft *Reef 2050 Water Quality Improvement Plan 2017–2022*, the *Reef 2050 Plan Investment Framework*, the *Reef Trust Objectives, Outcomes and Investment Principles* and the *Reef 2050 Plan Integrated Monitoring and Reporting Strategy*;
- Plans to be developed under the Grant Agreement; and
- All applicable laws.⁵¹

48 See www.environment.gov.au/marine/gbr/publications/grant-agreement-between-reef-trust-and-great-barrier-reef-foundation (accessed 15 October 2018).

49 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 1. This is available at: www.environment.gov.au/system/files/resources/4322207b-af9c-488f-b6bd-89dbf4af8302/files/reef-trust-gbr-foundation-grant-agreement-overview.pdf (accessed 8 November 2018).

50 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 2.

2.48 Under the Grant Agreement, the Foundation is required to develop certain guiding documents, notably its Investment Strategy and an Annual Work Plan, both of which must be publicly available on the Foundation's website. These documents must be developed in consultation with the department, the Reef 2050 Plan Independent Expert Panel and Advisory Committee, the Reef Ministerial Forum, the Queensland Government's Office of the Great Barrier Reef, and GBRMPA.⁵²

2.49 The Foundation is also required to develop:

- a Resourcing Plan that sets out how it will deploy resources to deliver on its obligations;
- a Co-Financing Strategy Plan outlining the Foundation's approach to raising other contributions from private and philanthropic donors;
- a Communication and Stakeholder Engagement Plan to drive collaborative efforts and ensure comprehensive engagement with the community; [and]
- a Monitoring and Evaluation Plan to support an adaptive management approach over the life of the Agreement. The Foundation will monitor and evaluate the outcomes of each Activity Component and participate in any formal review or evaluation of the Agreement.⁵³

2.50 The Foundation is required to maintain 'detailed accounts and records', including on 'the progress, selection and performance of projects, use of Grant funds and other contributions, and the creation, acquisition and disposal of assets'. These must be provided in a number of written reports to the department, notably progress reports due every six months on activities and expenditure, and annual audited reports regarding expenditure and contributions.⁵⁴

2.51 The Foundation is required to fulfil a number of other reporting requirements. These include reporting to the Ministerial Forum on progress against Reef 2050 Plan objectives, and the Foundation's Investment Strategy and Work Plan, as well as to the department on completed activities undertaken under the Partnership, some additional specific reports set out in the terms of the Grant Agreement, and 'other ad-hoc reports as required by the Department'.⁵⁵

51 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 2.

52 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 2.

53 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 2.

54 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 2.

55 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 3.

2.52 The Grant Agreement allows the Foundation to subcontract activities to 'appropriately qualified and expert subcontractors using rigorous assessment criteria', and outlines a number of provisions that must be included in its subcontracts and funding agreements'.⁵⁶

Guiding documents

2.53 Between the signing of the Partnership Agreement on 27 June 2018 and January 2019, the Foundation released nine plans as well as an Activity Gantt Chart 2018/19 as part of the Partnership Agreement. The plans are as follows:

- Collaborative Investment Strategy;
- Risk Management Plan;
- Resourcing Plan;
- Governance Arrangements;
- Investment Strategy and Annual Work Plan Consultation Plan;
- Communications and Engagement Plan;
- Monitoring and Evaluation Plan (Stage 1);
- Fraud Prevention Plan; and
- Investment Strategy.

2.54 Annual Work Plans will be released in June of each year for the life of the Partnership.⁵⁷

Commonwealth oversight

2.55 On governance matters, the Agreement provides for the department to appoint a Commonwealth observer to attend meetings of the Foundation's Board (with a limited number of exceptions), and a departmental representative on the PMC. The Foundation must also share relevant information with the department, including changes to its 'constitution, structure, management or financial position'.⁵⁸

2.56 The overview of the Grant Agreement notes that the Foundation is generally required to:

...employ best practice corporate governance arrangements and engage governance and risk management experts to help develop and implement

56 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 3.

57 Great Barrier Reef Foundation, 'Reef Trust Plans and Strategies', www.barrierreef.org/science-with-impact/reef-partnership/reef-trust-partnership-plans-and-strategies (accessed 24 January 2018).

58 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 3.

strong governance, anti-corruption, fraud prevention and audit and risk management policies and procedures.⁵⁹

2.57 The Foundation is required to develop a Fraud Prevention Plan both for itself and its subcontractors, as well as preparing a Risk Management Plan and appointing a Risk and Compliance Officer. The Foundation must also ensure that 'persons who have a history of poor governance or financial management' be prevented from being involved in the management of the Grant or its activities.⁶⁰

2.58 Regarding compliance, the overview of the Grant Agreement states that:

- As is usual practice in government contracting, the Foundation indemnifies the Department for any loss, cost, damage or claim arising from, amongst other things, the Foundation's breach of the Agreement or its negligent or unlawful act or omission or wilful misconduct in connection with the Agreement.
- The Agreement also provides for termination or reduction in its scope and outlines the conditions under which a termination event may occur, including as a result of non-performance, breach of obligation, or insolvency or other significant change to the nature of the Foundation.
- The Department may elect to continue all or part of the Activity if the Agreement is terminated for any reason, or if the Foundation so requests it. The Department may recover from the Foundation reasonable costs incurred in exercising these provisions. The Department may also seek to recover for the Government, any Grant funds which are not legally committed or that have not been spent by the Foundation in accordance with the Agreement.
- The Agreement also includes a number of other provisions common to Commonwealth grants regarding assets; intellectual property; confidential information; privacy obligations; conflicts of interest; compliance with legislation; work health and safety; Foundation representations and warranties; insurance policies required to be effected and maintained by the Foundation; dispute resolution procedures; force majeure events; notices; and preparation of an Australian Industry Participation Plan.⁶¹

59 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 3.

60 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 3.

61 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', pp. 3–4.

Termination of the agreement

2.59 The Agreement may be terminated or reduced in scope. Clause 25.1.1 states that this can be done:

If there is a material change in Australian Government policy that is inconsistent with the continued operation of this Agreement, the Department may by notice terminate this Agreement or reduce the scope of the Agreement immediately.⁶²

2.60 The Agreement can also be terminated on a number of other grounds, including for breaches of its terms, non-compliance with an agreed Plan, or if the Foundation becomes insolvent or is put into administration.⁶³

2.61 Termination or cessation of the Agreement would require the Foundation to return unspent monies to the Commonwealth.⁶⁴

Delivery of funding to the Foundation

2.62 The grant was paid in full to the Foundation on 28 June 2018, the day following the execution of the Grant Agreement.⁶⁵ The Grant Agreement requires that the grant must be held in a separate account to the Foundation's other operational accounts and its Public Fund.⁶⁶

2.63 Information provided by the Foundation indicated that at the 21 September 2018, the grant was being held across a number of term deposit accounts while the Foundation was developing its longer term investment policy.⁶⁷ Answers to questions on notice provided by the Foundation indicate that it has term deposits with ANZ, Bank of Queensland, Commonwealth, NAB, Suncorp and Westpac.⁶⁸

62 Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation, p. 43.

63 Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation, pp. 44–45 and 47–49.

64 Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation, p. 43–44.

65 Department of the Environment and Energy, *Submission 7*, Supplementary Submission Attachment B (Information statement regarding the assessment and awarding of the Reef Trust Grant to the Great Barrier Reef Foundation), p. 4.

66 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 2.

67 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 19.

68 Great Barrier Reef Foundation, *Answers to questions taken on notice, public hearing, Brisbane, 30 July 2018* (received 9 August 2018) p. 1.

Expenditure to date

2.64 At the committee's hearing on 21 September 2018, the Foundation confirmed that it had spent \$800 000 of the grant on operational and 'project management costs'.⁶⁹ This included expenditure on salaries, consultants, rent, equipment, travel and accommodation to meet community representatives in Cairns, Townsville and Mackay to provide briefings on the RTP, meeting expenses and legal services.⁷⁰

2.65 This expenditure was part of the Foundation's 2017–18 budget which provided for up to \$25 million for Project Component Activities, along with \$7.3 million in administrative costs.⁷¹ Ms Marsden commented:

The contract clearly states that we must be able to commence delivery across all five components by 1 July. It clearly states that for the first year, and the Activity Gantt Chart really outlines the key activities that will put the foundation and the partnership in that position. So that's what we're building up towards.⁷²

2.66 Ms Marsden went on to add that in relation to the \$25 million for projects, this had been set aside 'because we understand, in our initial stages of project design and consultation and even in discussions with the department and the Queensland government, there are projects that could be green lit right now'.⁷³

Announcement of initiatives

2.67 The Foundation announced the first stage of its Reef Water Quality Improvement Grant Program on 13 November 2018, with applications closing on 10 December 2018. These grants totalled \$20 million, and were open for projects over \$500 000 that would be ready to start by March 2019 that addressed the declining quality of coastal water 'influenced by land-based run-off'.⁷⁴ At the time of writing, the results of this process have not been announced.

69 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 18 September 2018, p. 19.

70 Great Barrier Reef Foundation, *Answers to questions taken on notice, public hearing, Canberra, 18 September 2018* (received 4 October 2018), p. 1.

71 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 18 September 2018, p. 19. See also, Great Barrier Reef Foundation, 'Activity Gantt Chart 2018/19', p. 6.

72 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 18 September 2018, p. 19.

73 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 18 September 2018, p. 19.

74 Great Barrier Reef Foundation, 'Reef Trust Partnership opens first water quality grants', *Media Release*, 13 November 2018, www.barrierreef.org/latest/news/reef-trust-partnership-opens-first-water-quality-grants (accessed 23 January 2019).

2.68 On 10 January 2019, the Foundation announced that around 10 per cent of total Partnership funding, around \$42 million, would be allocated to Reef activities with traditional owners, including building on work 'already being done by more than 200 Indigenous Rangers and 70 Sea Country groups within the Reef catchment'. Ms Marsden, the Foundation's Managing Director, stated that:

Traditional Owners have an enduring connection to the Reef and have been working to conserve and restore it for generations. Today's announcement will ensure that a strategic plan of action can be co-developed with Traditional Owners, building on and scaling up existing activities which include tagging turtles, cleaning beaches, monitoring the health of waterways and remediating land and sea country along the Reef.⁷⁵

2.69 On 21 January 2019, the Foundation announced its first funding for Reef projects: \$574 000 funding for AIMS to undertake a '25-day health check of remote far northern reefs'.⁷⁶ It has been reported that AIMS will contribute \$833 000 from its own budget to undertake this project.⁷⁷

2.70 The Foundation has also announced its first funding round for Community Reef Protection Grants. These will be grants between \$50 000 and \$100 000, with a total of \$700 000.⁷⁸ The initial grants round is focussed on 'Activating citizen science projects to collect and communicate information on Reef health'. Regarding these grants, the Foundation stated:

Summer can increase the levels of potential Reef disturbance events, including coral bleaching, flooding and cyclones. Citizen science can complement research and management efforts to collect and share information on Reef health.

This grant program will enable community-led projects focused on collecting, analysing, sharing and utilising citizen science information relevant to Reef health. Investment will be targeted at organisations with demonstrated experience in reef citizen science and community engagement.⁷⁹

75 Great Barrier Reef Foundation, 'Reef Trust Partnership: Reef protection through Traditional Owners', *Media Release*, 10 January 2019, www.barrierreef.org/latest/news/reef-trust-partnership-reef-protection-through-traditional-owners (accessed 23 January 2019).

76 Great Barrier Reef Foundation, 'First Reef Trust Partnership funded project underway' *Media Release*, 21 January 2019, www.barrierreef.org/latest/news/first-reef-trust-partnership-funded-project-underway (accessed 23 January 2019).

77 See, for example, 'Sector Suspicious Over Great Barrier Reef Foundation's First Project', <https://probonoaustralia.com.au/news/2019/01/sector-suspicious-great-barrier-reef-foundations-first-project/> (accessed 23 January 2019).

78 Great Barrier Reef Foundation, '\$700,000 in community grants to support citizen science Reef monitoring', *Media Release*, 19 December 2018, www.barrierreef.org/latest/news/700-000-in-community-grants-to-support-citizen-science-reef-monitoring (accessed 23 January 2019).

79 Great Barrier Reef Foundation, 'Community Reef Protection Grants: *Stage 1: Reef Citizen Science*', no date, www.barrierreef.org/science-with-impact/reef-partnership/community-grants-stage-1-reef-citizen-science-grant-program (accessed 23 January 2019).

2.71 Applications for Community Grants opened on 7 January 2019 and closed on 30 January 2019, with successful applicants to be announced in February 2019.⁸⁰ The Foundation has stated that a further round for projects will be undertaken in late 2019.⁸¹

80 Great Barrier Reef Foundation, '\$700,000 in community grants to support citizen science Reef monitoring', *Media Release*, 19 December 2018, www.barrierreef.org/latest/news/700-000-in-community-grants-to-support-citizen-science-reef-monitoring (accessed 23 January 2019).

81 Great Barrier Reef Foundation, 'Community Reef Protection Grants: *Stage 1: Reef Citizen Science*', no date, www.barrierreef.org/science-with-impact/reef-partnership/community-grants-stage-1-reef-citizen-science-grant-program (accessed 23 January 2019).

Chapter 3

The decision to fund the Foundation Partnership

3.1 This chapter considers the decision-making processes in relation to funding the Foundation Partnership. The last chapter suggested that there was no consultation with the Foundation itself, before this measure was proposed to it by members of the executive on 9 April 2018. Evidence considered in this chapter also indicates that the Commonwealth undertook no consultation with important stakeholders in the Reef sector, particularly its partner in the Reef 2050 Plan, the Queensland Government, and government agencies that are funded by the public to maintain expertise and good management practice in Reef research and programs.

3.2 Lastly, this chapter examines other irregularities in the probity of the decision, looking at the limited evidence for due diligence being undertaken on the Foundation before the decision was made to award it an unprecedented Commonwealth grant of \$444 million.

3.3 The committee notes that many of the issues canvassed in this chapter were canvassed by the Australian National Audit Office audit. The findings of that audit largely concur with this committee's findings, as is discussed elsewhere in this report.

Initial consideration of funding for the Reef

3.4 The department provided a summary of the initial consideration and approval of the Partnership Grant. This suggested that the Government had been looking to develop Reef-related proposals for consideration from 2017:

There was extensive engagement with Commonwealth agencies in the development of the options by the [Interdepartmental Taskforce led by the department that was established on 15 May 2017].

The Government first considered Reef-related proposals as part of the 2017–18 Mid-Year Economic and Fiscal Outlook process. The Government's decisions were announced by the then Prime Minister, the Hon Malcolm Turnbull MP, on 22 January 2018.

Minister Frydenberg took two submissions to the Expenditure Review Committee in March 2018, as part of the 2018–19 Budget process, to address the pressures facing the Great Barrier Reef.¹

3.5 The Hon Malcolm Turnbull, then Prime Minister, told the committee that these proposals were rejected by the Expenditure Review Committee (ERC) on

1 The announcement made on 22 January 2018 is outlined in the previous chapter. See also Department of the Environment and Energy, *Submission 7*, Supplementary Submission Attachment B (Information statement regarding the assessment and awarding of the Reef Trust Grant to the Great Barrier Reef Foundation), p. 1.

6 March 2018, and that the then Minister for the Environment was charged with developing a new approach:

On 6 March 2018 the Expenditure Review Committee of Cabinet considered a Portfolio Budget Submission from the then Minister for Energy & Environment proposing two options for additional funding to support the health of the Reef. One was partially offset and over 6 years, the other was smaller and fully offset over two years.

The ERC resolved that an alternative proposal be brought forward to create a tied reef fund, with a partner outside the general government sector, to be funded in 2017/18 for activities to be agreed with the Commonwealth, with appropriate governance arrangements.²

3.6 Mr Turnbull noted that this approach was favoured by the then Treasurer, the Hon Scott Morrison MP, and the Minister for Finance, Senator the Hon Mathias Cormann:

This approach was taken because the Treasurer and Finance Minister were open to funding a substantial package for the Reef *so long as it was expensed in 2017/18*. This was because Government revenues were promisingly strong in 2017/18 and they believed the Budget in that year could accommodate the substantial investment proposed for the Reef. However, that may not be so in subsequent years. This was the reason why a partner *outside the Commonwealth Government* sector was sought; it also brought with it the possibility of leveraging the Commonwealth's contribution with private sector contributions.³

The arrangement allowed the Government to book the grant expenditure in one year, 2017/18, notwithstanding that the investment of the funds in the various reef projects by the GBRF would take place over a period of six years.⁴

3.7 Mr Turnbull stated that Mr Frydenberg brought a new proposal for the Foundation Partnership to an ERC meeting on 28 March 2018:

Following that decision a new submission prepared by the Department of Environment and Energy recommending a grant of \$443 million to the Great Barrier Reef Foundation was circulated and presented by the (then) Minister to the ERC on 28 March 2018 in the usual way.⁵

2 The Hon Malcolm Turnbull, *Answers to written questions taken on notice* (received 1 October 2018), p. 1.

3 The Hon Malcolm Turnbull, *Answers to written questions taken on notice* (received 1 October 2018), p. 1.

4 The Hon Malcolm Turnbull, *Answers to written questions taken on notice* (received 1 October 2018), p. 1.

5 The Hon Malcolm Turnbull, *Answers to written questions taken on notice* (received 1 October 2018), p. 1.

3.8 The timeline of the decision to fund the Foundation Partnership provided by Mr Frydenberg to the House of Representatives illustrates the speed at which the measure was developed by the department and Foundation, and approved by the executive:

Following ERC agreement [on 28 March 2018], an interdepartmental committee was established to progress this proposal, and I was given authority to approach the foundation, which occurred on 9 April, to determine whether they were interested in entering into a partnership for the benefit of the reef...subject to the successful negotiation of a partnership agreement and final phase of due diligence.⁶

3.9 The department submitted that it led the establishment of an interdepartmental committee (IDC) in April 2018 'to provide advice on the assessment and approval of the grant to the Foundation'. The IDC held five meetings between April and July 2018, which were not formally minuted. These meetings, the department stated:

...included staff from the Department, the Department of the Prime Minister and Cabinet, the Department of Finance and Treasury.

The IDC used a short standing agenda covering the status of grant agreement negotiations, ministerial approvals and communications. The Department provided verbal updates at these meetings as a basis for discussion. No formal minutes were taken.⁷

3.10 The committee sought further evidence from the department, as well as from the Department of Finance and the Treasury, as to whether they had been consulted on early proposals for \$444 million in funding delivered through the Foundation Partnership. All departments declined to provide evidence on the initial development of the Partnership, citing cabinet-in-confidence conventions.⁸

3.11 In giving this evidence, a Treasury official suggested that, whereas the Foundation Partnership had gone through the cabinet process, smaller grants such as the \$5 million awarded to the Foundation were not necessarily submitted to cabinet:

...often the administration of grants don't go through cabinet, they're part of the administration of a program. They typically don't go through cabinet.⁹

6 The Hon Josh Frydenberg MP, Minister for the Environment and Energy, *House of Representatives Hansard*, 13 August 2018, p. 6981.

7 Department of the Environment and Energy, *Submission 7*, Supplementary Submission, p. 6.

8 See Mr Finn Pratt AO PSM, Secretary, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, p. 67; Mr David Fredericks, Deputy Secretary, Budget and Financial Reporting, Department of Finance, *Committee Hansard*, 21 September 2018, pp. 38–39; and Ms Meghan Quinn, Deputy Secretary, Treasury, *Committee Hansard*, 21 September 2018, p. 54.

9 Ms Meghan Quinn, Deputy Secretary, Treasury, *Committee Hansard*, 21 September 2018, p. 52.

The choice of the Foundation

3.12 The Partnership has been described by the Government as 'the largest ever single investment' in protecting the Reef.¹⁰ Given the level of funding involved, one of the key areas of focus for this inquiry is why a charity has been selected to administer funding rather than a Commonwealth entity, such as the department, CSIRO or one of the Commonwealth agencies dedicated to the Reef (Great Barrier Reef Marine Park Authority (GBRMPA) and Australian Institute of Marine Science (AIMS)).

3.13 Regarding the choice of the Foundation, Mr Turnbull commented to the committee:

As to why the GBRF was recommended by the Department of the Environment and Energy (as opposed to another organisation) you should inquire of the Department. But it was plainly a reputable organisation with a track record in Reef research and support with whom the Department had previously worked and in which it had confidence.¹¹

3.14 On why GBRMPA was not selected to administer the funding, the Minister representing the Minister for the Environment and Energy in the Senate explained that this is because the Partnership goes beyond GBRMPA's responsibilities.¹² Mr Dean Knudson, a Deputy Secretary at the department, added that GBRMPA has 'a very specific role' as a park manager and AIMS 'is a science entity', whereas the Partnership is 'about on-the-ground project delivery, in which the Great Barrier Reef Foundation has extensive experience'.¹³

3.15 The department set out some of the qualities of the Foundation that led to the establishment of the Partnership:

- a. its track record in leveraging philanthropic support as Australia's leading reef-dedicated charity.
- b. its decade of experience in working effectively with the Department and a diverse range of Reef stakeholders to manage Commonwealth and State funding to develop, manage and deliver projects to support the Reef.

10 The Hon Malcolm Turnbull MP, Prime Minister; The Hon Julie Bishop MP, Minister for Finance; The Hon Josh Frydenberg MP, Minister for the Environment and Energy; The Hon Melissa Price MP, Assistant Minister for the Environment, 'Record investment in the Great Barrier Reef to drive jobs', *Joint Media Release*, 29 April 2018.

11 The Hon Malcolm Turnbull, *Answers to written questions taken on notice* (received 1 October 2018), p. 1.

12 Senator the Hon Simon Birmingham, Minister for Education and Training, *Senate Environment and Communications Legislation Committee Hansard*, Budget Estimates 2018–19, 21 May 2018, p. 32.

13 Mr Dean Knudson, Deputy Secretary, Environment Protection Group, Department of the Environment and Energy, *Senate Environment and Communications Legislation Committee Hansard*, Budget Estimates 2018–19, 21 May 2018, pp. 31 and 56.

-
- c. the first phase of due diligence conducted by the Department which considered the Foundation's governance, structure, constitution, project management, fundraising history, capacity for growth, board composition and scientific experience.¹⁴

3.16 In other documentation supporting the Partnership measure, the department has highlighted further reasons for the Foundation being chosen to administer such a sizeable Commonwealth grant, including because it:

- is a not-for-profit organisation established in 2000 to raise funds to protect and preserve the Great Barrier Reef
- has a strong track record of fundraising
- works effectively with the diverse range of relevant stakeholders to deliver actions to support the Reef 2050 Plan
- has a well-established track record of efficiently developing and managing projects for a range of funding bodies to deliver outcomes for the Great Barrier Reef
- has sound corporate governance, with its board having a number of current and former CEOs, Chairs and executive officers of some of Australia's largest companies
- is familiar with government requirements and expectations, and has a solid track record in managing funding from Commonwealth and state government sources.¹⁵

3.17 The Foundation also put forward reasons as to why it had been chosen to receive the grant. Ms Marsden stated:

In my opinion, there are two key reasons why we are uniquely placed to turn this money into real outcomes for the reef. The first is that we have the demonstrated ability to leverage money and to drive collaboration at a global level. The second is that, through projects like Raine Island and the many others we've delivered over the years, we have a proven and global reputation for carefully targeting problems, designing solutions and working with the right people to get results. What we have been asked to do with this grant is exactly what we have been doing for the last 17 years. I'm very confident that the Great Barrier Reef Foundation can turn this funding into action in time for it to make a difference.¹⁶

14 Department of the Environment and Energy, *Submission 7*, Supplementary Submission Attachment B (Information statement regarding the assessment and awarding of the Reef Trust Grant to the Great Barrier Reef Foundation), p. 2.

15 Department of the Environment and Energy, *Reef Trust–Great Barrier Reef Foundation Partnership Grant Guidelines*, 2018, www.environment.gov.au/system/files/resources/7d29a273-1e90-4cdf-ae7b-5bb7fb8745dd/files/reef-trust-gbrf-partnership-grant-guidelines.pdf (accessed 21 June 2018), p. 5.

16 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, pp. 39–40.

3.18 There have been some reports that early advice to government advocated for the grant to be awarded to an established Commonwealth agency. In hearings, relevant departments were unable to comment on this assertion.¹⁷

A lack of consultation with Reef stakeholders

3.19 The previous chapter established that the Foundation was unaware of the proposal for a \$444 million Partnership before it was approached on 9 April 2018. This section sets out the evidence showing a lack of consultation with other key stakeholders, including the Queensland Government, the Commonwealth's partner in the Reef 2050 Plan. It also appears that the Government's own agencies with policy, program delivery and research expertise in the Reef were not aware of the proposal until it had already been decided by the Government. This appears to have created a degree of uncertainty in their planning and operations.

The Queensland Government

3.20 The Queensland Government expressed disappointment that a Commonwealth agency had not been given the responsibility of disbursing new funding for the Reef. It advised that it was not consulted on the Partnership and 'was only advised on the day of the announcement'.¹⁸

Great Barrier Reef Marine Park Authority

3.21 The Chairman of GBRMPA at the time of the 2018–19 Budget, Dr Russell Reichelt (also a Director on the Foundation's Board), advised the committee in Estimates that he became aware of the Government's decision only a 'few weeks before' the Prime Minister's announcement of the Partnership on 29 April 2018.¹⁹ At a later hearing, Dr Reichelt told the committee that:

By the time that amount was known and the direction of those funds was known, the decision had already been made—it was well into the planning for the announcement. In other words, there wasn't a period where I knew about it before the decision was taken to do it.²⁰

3.22 Dr Reichelt indicated that the Foundation was approached by the Government about the potential Partnership 'within a couple of days' of him being made aware of

17 For example, see Ms Meghan Quinn, Deputy Secretary, Treasury, *Committee Hansard*, 21 September 2018, p. 54; and Mr David Fredericks, Deputy Secretary, Budget and Financial Reporting, Department of Finance, *Committee Hansard*, 21 September 2018, p. 38.

18 Queensland Government, *Submission 9*, p. 1.

19 Dr Russell Reichelt, Chairman, Great Barrier Reef Foundation, *Senate Environment and Communications Legislation Committee Hansard*, Budget Estimates 2018–19, 21 May 2018, p. 51.

20 Dr Russell Reichelt, Chairman, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 26.

the measure in his GBRMPA capacity.²¹ The committee notes that this lack of awareness is despite the involvement of GBRMPA in the departmental taskforce that was responsible for developing proposals for consideration by the Government from mid-2017.²² The committee also notes that a request to GBRMPA made under FOI legislation produced no documents relating to Commonwealth consultation prior to the Partnership being announced on 29 April 2018.²³

CSIRO

3.23 The Chief Executive of CSIRO, Dr Larry Marshall, who is a member of the Foundation's Chairman's Panel and had attended all of its meetings from 2015 onwards, explained that he became aware of the Partnership 'probably the weekend before the announcement' following 'a rumour that I heard'.²⁴

3.24 Emails provided by CSIRO pursuant to the order for production of documents the Senate agreed to on 20 June 2018 (notice of motion no. 857) do not discuss any aspect of the Foundation, until the morning of 29 April 2018, the day the partnership was announced.²⁵

3.25 A series of emails from Monday 30 April 2018, the day after the measure was announced, include comments indicating that CSIRO executives were unprepared for the Foundation Partnership. For example, an email written by the Chief Operating Officer, Ms Hazel Bennett, to CSIRO executives, including Dr Peter Mayfield, the Executive Director for Environment, Energy and Resources, stated that:

Early call between Peter and I—we didn't have visibility....seems to have involved the PM's office....funding went to the Great Barrier Reef

-
- 21 After the Foundation was approached by the Government to discuss the policy, Dr Reichelt recused himself from Foundation Board's consideration of the matter. Dr Russell Reichelt, Chairman, Great Barrier Reef Marine Park Authority, *Senate Environment and Communications Legislation Committee Hansard*, Budget Estimates 2018–19, 21 May 2018, pp. 53–54.
- 22 Department of the Environment and Energy, *Submission 7*, Supplementary Submission Attachment B (Information statement regarding the assessment and awarding of the Reef Trust Grant to the Great Barrier Reef Foundation), p. 1.
- 23 See, for example: The Hon Tony Burke MP, 'FOI reveals more confusion on the government's Great Barrier Reef Cash Splash', *Media Release*, www.tonyburke.com.au/media-releases/2018/6/21/media-release-foi-reveals-more-confusion-on-the-governments-great-barrier-reef-cash-splash (accessed 26 November 2018).
- 24 Dr Larry Marshall, Chief Executive, CSIRO, *Senate Economics Legislation Committee Hansard*, Budget Estimates 2018–19, 31 May 2018, p. 169.
- 25 CSIRO, Documents Produced pursuant to the Senate Order agreed on 20 June 2018 (notice of motion no. 857), Document 1.

Foundation...team will make calls this morning to see what else they can find.²⁶

3.26 Similarly, an early morning email sent on 30 April 2018, from Dr Mayfield to Dr Christian Roth, Senior Principal Research Scientist with CSIRO, describes a 'mad scramble' for information for the Board about the Foundation Partnership, a degree of uncertainty about existing connections between the Foundation and CSIRO, and a suggestion that CSIRO's Chief Executive 'may not have known' about the measure before it was announced.²⁷

3.27 An email sent the evening of 30 April 2018 from the Chief Executive of CSIRO, Dr Marshall, gives some information for the Board. This suggests that the CSIRO has an 'excellent relationship' with the Foundation, both through Dr Marshall's membership at the 'Chairman's level' and the eReef's program, as well as Dr Roth's membership of the Foundation's International Science Advisory Committee (ISAC). Dr Marshall also hinted at the speed with which this proposal was put together, and the lack of consultation that occurred with AIMS:

It appears AIMS was not anticipating the development, which only emerged over the last 4–6 weeks, as the budgetary windfall became evident to the Govt, and the full-scale [new policy proposal] developed last year by the [department] was brought forward to the coming [financial year].²⁸

Australian Institute of Marine Science

3.28 Dr Paul Hardisty, Chief Executive Officer, Australian Institute of Marine Science, was informed by the department about the Foundation Partnership on 24 April 2018, just a few days before the policy was announced.²⁹

3.29 Apart from this contact with the Chief Executive Officer, it seems that prior to the announcement of the Foundation Partnership on 29 April 2018, senior AIMS officials had no awareness that a funding mechanism was being considered that would see Commonwealth funds being disbursed by a private organisation.³⁰

26 CSIRO, Documents Produced pursuant to the Senate Order agreed on 20 June 2018 (notice of motion no. 857), Document 9, p. 1.

27 CSIRO, Documents Produced pursuant to the Senate Order agreed on 20 June 2018 (notice of motion no. 857), Document 10, p. 1.

28 CSIRO, Documents Produced pursuant to the Senate Order agreed on 20 June 2018 (notice of motion no. 857), Document 12, p. 1.

29 Department of the Environment and Energy, FOI 180514, Documents 19, p. 1 and 22.

30 See evidence given by Mr David Mead, Executive Director Strategy and Development, Australian Institute of Marine Science and Dr Paul Hardisty, Chief Executive Officer, Australian Institute of Marine Science, *Committee Hansard*, 21 September 2018, pp. 29 and 30 respectively.

3.30 It is clear in evidence received by the committee that the lack of prior consultation introduced substantial uncertainty for AIMS. For example, an internal AIMS email from 30 April, the day after the announcement was made, indicates a degree of confusion about implications for AIMS funding, as well as to why AIMS had no visibility of such a significant announcement:

Hoping we can get a briefing today on what the funding means and so we can have a Comms plan if/when we are approached by media...It seems GBRMPA, GBRF and JCU were aware of the announcement, but I notice that AIMS was not named in the ministerial release. It would be good for the Comms team to have an understanding of whether this is part of a strategy ie; we want to lead the project quietly in the background or, if it was out of our hands ie: political. I hate to think we were not in the loop on it.³¹

3.31 At the AIMS council meeting held over 4 and 5 June 2018, an item on the agenda outlined the ongoing uncertainty this announcement had for AIMS at a senior level, even well after the announcement of the grant:

We have been told that this is funding for the next phase of our current RRAP project, although we have no guarantees that GBRF will honour the results and guidance of the feasibility study and the current RRAP consortium. We are working hard with the DoEE, DIIS, and the GBRF to ensure that the foundation does not try to 'reinvent the wheel', or apply another level of management and decision-making to the process, but we have no clarity at the moment of where this will land. At the most recent GBRF Chairman's weekend (which I attended) it was clear that the reef restoration area will be the focus of the foundation's fundraising efforts. We understand, verbally, that the idea is to leverage the government's \$100m with \$100m from philanthropists and industry, and another \$100m from research providers. Funds are to be spent over 6 years at most. The good news is that the money is there. The bad news is that there is no certainty that AIMS will get any of it. We are working hard to position ourselves and to ensure the current RRAP offers the strongest R&D strategy.³²

Lack of evidence of due diligence in the Government's decision

3.32 The department indicated that as part of the grant evaluation process, a due diligence review was undertaken, to ascertain whether there were any issues that would preclude the Foundation from receiving the grant.³³

31 Australian Institute of Marine Science, Documents Produced pursuant to the Senate Order agreed on 15 August 2018 (notice of motion no. 954), Document 3, p. 1.

32 Australian Institute of Marine Science, Documents Produced pursuant to the Senate Order agreed on 15 August 2018 (notice of motion no. 954), Document 56, p. 2.

33 Mr Dean Knudson, Deputy Secretary, Environment Protection Group, Department of the Environment and Energy, *Committee Hansard*, 30 July 2018, p. 62. See also Mr Finn Pratt AO PSM, Secretary, *Committee Hansard*, 21 September 2018, p. 61.

3.33 While the department described the due diligence process both before and after the announcement of the grant as 'extensive',³⁴ there is in fact very little available evidence to establish whether or not appropriate due diligence was undertaken by the Commonwealth to grant the Foundation a much larger amount of funding—nearly half a billion dollars—before the decision to do so was made on 9 April 2018.

Due diligence prior to the award of the \$444 million grant

3.34 Mr Finn Pratt AO PSM, Secretary of the department, outlined the process that had been undertaken in approving the Foundation for funding under the Partnership. He commented that this process had been undertaken without the knowledge of the Foundation itself—at least until it had accepted the Government's proposal for the Partnership Agreement following the 9 April meeting. Mr Pratt stated:

There is much interest in due diligence. The former minister explained to the House that the department did a first phase of due diligence as part of the cabinet process. This included looking at the foundation's constitution, structure, governance, board composition, project management, scientific expertise, fundraising history and capacity for growth. It is incorrect to assume that because the foundation was unaware of the department's due diligence work that no due diligence took place before the offer to the foundation was made...Indeed, it would have been inappropriate for the department to tell the foundation about the due diligence work, as this was part of the budget process.³⁵

3.35 The department indicated that documents it released under FOI requests support the suggestion that the 'first phase of due diligence' was being undertaken in early March. These documents include a note outlining some high level observations of a meeting on 8 March 2018 between departmental officials and Ms Marsden of the Foundation.³⁶ Ms Marsden commented that the Foundation also supplied due diligence documents to the department on 28 May 2018 to support their application for this smaller grant, including two years of financial records.³⁷

3.36 The department stated that Ms Marsden assumed that the meeting and requirement for documentation had been solely related to Foundation's application for the smaller \$5 million grant.³⁸ Indeed, Ms Marsden echoed this perception to the

34 Mr Finn Pratt AO PSM, Secretary, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, p. 65.

35 Mr Finn Pratt AO PSM, Secretary, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, p. 61.

36 Mr Stephen Oxley, First Assistant Secretary, Heritage, Reef and Marine Division, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, p. 63.

37 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 18 September 2018, p. 14.

38 Mr Stephen Oxley, First Assistant Secretary, Heritage, Reef and Marine Division, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, p. 63.

committee, suggesting the department had conducted due diligence on the Foundation for the \$444 million grant 'without our knowledge, in March [2018]'.³⁹

3.37 In relation to the 8 March 2018 meeting, the department commented:

What we've said is that we've been involved with the foundation for quite some time to make sure that they have appropriate governance on project delivery...The note that you're referring to is from early discussions with the foundation where, quite frankly, we were very much trying to get a sense of how they operated at that time, and it does not necessarily reflect on how they will be managing these grants going forward.⁴⁰

Due diligence after the award of the \$444 million grant

3.38 Mr Pratt outlined the full due diligence process carried out following the award and announcement of the Foundation Partnership. He noted that the department developed grant guidelines consistent with the Commonwealth Grant Rules and Guidelines. Following the submission of the Foundation's proposal responding to these guidelines on 29 May 2018, the department evaluated the proposal, including whether it adequately addressed the guidelines, whether it represented value for money, whether the Foundation had the capacity to upscale in order to deliver on time and on budget, the risks associated with successfully delivering the grant and the proposed mitigations. Mr Pratt added that the Australian Government Solicitor undertook a detailed due diligence review, which was provided on 8 June 2018. Mr Pratt concluded:

The department sought approval from the former minister in accordance with section 71 of the [*Public Governance, Performance and Accountability Act 2013* (PGPA Act)] based on its evaluation that the grant to the foundation represented an efficient, effective and ethical use of Commonwealth funds on 15 June. A comprehensive grant agreement was developed with the support of the Australian Government Solicitor and executed on 27 June.⁴¹

3.39 Pursuant to the order for the production of documents agreed to by the Senate on 21 August 2018 (notice of motion no. 978), the department provided documents to demonstrate the due diligence processes that it undertook in relation to the award of

39 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 18 September 2018, p. 14.

40 Mr Dean Knudson, Deputy Secretary, Environment Protection Group, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, p. 64.

41 Mr Finn Pratt, Secretary, Department of the Environment and Energy, *Committee Hansard*, 21 September 2018, pp. 61–62.

the Partnership grant 'that were considered by the Minister in approving the grant'.⁴² These documents include:

- an information statement explaining the assessment and awarding of the grant;
- a compliance table;
- a Proposal Evaluation; and
- an index to the due diligence report prepared by the Australian Government Solicitor.

3.40 The Compliance Table sets out the mandatory requirements that the grant was subject to, including the PGPA Act, the PGPA Rule, and the Commonwealth Grant Rules and Guidelines, as well as the conditions of the Partnership Grant itself.⁴³

3.41 In the Proposal Evaluation, the department noted that the Foundation had identified 'potential risks and constraints to Partnership delivery', but 'demonstrated it has the capacity to manage these in an effective and adaptive manner'.⁴⁴ These included a number of areas for work, including that:

- 'The Foundation has recognised the need to expand its organisational capacity in order to deliver all five components of the Partnership and is progressing measures to address this';
- 'The Foundation is also seeking expert advice to inform transition requirements' including engaging consultants to evaluate its capacity, program design, innovation support, key stakeholder markets, and 'a Leadership Coach and Human Resources Consultant';
- 'There is however a need for the organisation to expand experience/skills relevant to four out of the five partnership outcomes' including water quality improvement, [Crown of Thorn Starfish] COTS control, Indigenous and Community Reef Protection Actions and Integrated Monitoring and Reporting;
- 'The Foundation has not delivered a grant of this scale before', although noting its ability to leverage support in upscaling its operations; and
- 'The only 'perceived' conflict of interest identified by the Foundation is that Dr Russell Reichelt, a Director of the Foundation, is the Chairman and Chief

42 Department of the Environment and Energy, Documents Produced pursuant to the Senate Order agreed on 21 August 2018 (notice of motion no. 978), Cover Letter from the Hon. Simon Birmingham, Minister for Trade, Tourism and Investment, p. 1.

43 Department of the Environment and Energy, Documents Produced pursuant to the Senate Order agreed on 21 August 2018 (notice of motion no. 978), Attachment A2 (Compliance Table), p. 1.

44 Department of the Environment and Energy, Documents Produced pursuant to the Senate Order agreed on 21 August 2018 (notice of motion no. 978), Attachment A3 (Proposal Evaluation), p. 1.

Executive of [GBRMPA], which is a potential recipient of grant funding', which will be managed through the Foundation's existing procedures.⁴⁵

3.42 The Compliance Table notes that the department's risk assessment found that the grant 'Proposal is adequate for this stage of planning'. It also found that the Foundation had identified appropriate 'controls and treatments' for the following risks:

...inability to quickly scale up the Foundation's delivery capacity; loss of local delivery capacity and momentum; work health and safety compliance; misinformation occurring due to inadequate communication from the Foundation; managing stakeholder expectations; legal and regulatory risk; break-down of partnerships; and inadequate delivery.⁴⁶

3.43 The Department of Finance confirmed that these documents provided evidence that the department had undertaken appropriate risk assessment and due diligence on the Foundation Partnership:

It's an obligation of all agencies, grant-giving or otherwise, to assess risks in the activity they undertake. I note that the Department of the Environment has provided a supplementary submission, dated 10 September, where they actually provide some of the processes and steps that they went through, including how they have gone through and assessed risk. So, yes, there are obligations on all departments to assess and manage risk, and the Department of the Environment has provided that information in this case.⁴⁷

3.44 The committee notes that all these checks on the Foundation were carried out following the announcement of the \$444 million grant.

The use of a grant mechanism to award funding

3.45 The Grant Agreement executed on 27 June 2018 between the Commonwealth and the Foundation is available in full on the department's website. The introduction to the Agreement on the departmental website includes a statement about the Commonwealth's grants process:

Grants are widely used to achieve government policy objectives, involving the payment of billions of dollars each year to the non-government sector. Grants provide significant benefits to many Australians, through the Government working in partnership with individuals and organisations to deliver outcomes for the Australian public.

45 Department of the Environment and Energy, Documents Produced pursuant to the Senate Order agreed on 21 August 2018 (notice of motion no. 978), Attachment A3 (Proposal Evaluation), pp. 1, 3, 5, 7, 11 and 19–20.

46 Department of the Environment and Energy, Documents Produced pursuant to the Senate Order agreed on 21 August 2018 (notice of motion no. 978), Attachment A3 (Proposal Evaluation), p. 10.

47 Dr Stein Helgeby, Deputy Secretary, Governance and APS Transformation, Department of Finance, *Committee Hansard*, 21 September 2018, p. 39.

The Commonwealth Grants Rules and Guidelines 2017 (CGRGs) establish the Commonwealth grants policy framework. The CGRGs contain the key legislative and policy requirements, and explain the better practice principles of grants administration.

In accordance with the CGRGs, a tailored grant agreement has been developed and executed between the Department of the Environment and Energy and the Foundation. It establishes the grounds for an effective working relationship based on collaboration and respect and a shared understanding of objectives and expectations.⁴⁸

3.46 The department informed the committee that the development of the Grant Agreement had adhered to all appropriate Commonwealth requirements:

In establishing the grant, the department undertook a grant assessment process, in line with the Commonwealth Grants Rules and Guidelines. This included: developing grant guidelines specifying the intended outcomes and requirements; secondly, assessing the foundation's proposal, responding to the grant guidelines, to ensure that it represented value for money; thirdly, a due diligence review, to ascertain whether there were any issues that would preclude the foundation from receiving the grant; and then, finally, seeking the approval of the Minister for the Environment and Energy that the funding proposals represented an efficient, effective, economic and ethical use of Commonwealth funds. I would note that the funding agreement was developed with the full support of the Australian Government Solicitor.⁴⁹

3.47 The department went on to describe the Grant Agreement as 'robust and comprehensive' and provided a brief overview of the Grant's conditions and oversight mechanisms:

It specifies the delivery, which must be consistent with the goals of the Reef 2050 Plan...mentioned earlier, and that close consultation is required with the department but also our 2050 partners. That includes the Great Barrier Reef Marine Park Authority and the Queensland government, as well as the reef advisory bodies, which include the independent expert panel and the Reef 2050 Advisory Committee. The agreement includes a detailed planning and design process in the early stages, to ensure the foundation is able to build its resources, manage risk and attract co-investment, and also to engage with stakeholders and to monitor and evaluate outcomes, and you've just had some testimony to that effect. An annual investment strategy and annual work plan will be developed in consultation with those

48 Grant Agreement Between the Reef Trust and Great Barrier Reef Foundation, www.environment.gov.au/marine/gbr/publications/grant-agreement-between-reef-trust-and-great-barrier-reef-foundation (accessed 9 November 2018).

49 Mr Dean Knudson, Deputy Secretary, Environment Protection Group, Department of the Environment and Energy, *Committee Hansard*, 30 July 2018, p. 62.

key agencies and advisory bodies, and you've heard that that will all be made public.⁵⁰

3.48 There are also oversight mechanisms in the Agreement. This includes six-monthly reporting, as well as a Commonwealth observer position on the Foundation's Board, and a departmental representative on the partnership management committee established by the Foundation.⁵¹

The use of a grant mechanism rather than an open tender process

3.49 The committee received evidence that raised concerns about the categorisation of the Foundation Partnership as a grant, rather than being awarded subject to the Commonwealth's more stringent procurement framework. Some stakeholders argued that adherence to the Commonwealth Procurement Rules and Guidelines—rather than grant processes—would have ensured that greater due diligence was undertaken in awarding Reef-related funding, and much more transparency in Commonwealth decision making processes.⁵²

3.50 The Queensland Government suggested that going to tender would have ensured transparency and accountability in the Government's decision making process. It stated that it was:

...concerned at the unprecedented approach of providing such a level of funding to a single private organisation without going to the open market to ensure a transparent and accountable procurement process.⁵³

3.51 350.org Australia submitted that this process could have ensured transparency in the Commonwealth's decision making:

We believe the means through which *the GBR Foundation* was chosen as the organisation to be given the nearly \$500 million dollar taxpayer grant, raises questions around transparency and the public interest. We believe an Inquiry is required to understand why such a large sum of public funds was given to a corporate organisation without a competitive tender process. This decision effectively leaves authorities such as the Great Barrier Reef Marine Park Authority and other scientific organizations in the dark and raises questions about the delivery of the 2050 Great Barrier Reef Partnership Program.⁵⁴

50 Mr Dean Knudson, Deputy Secretary, Environment Protection Group, Department of the Environment and Energy, *Committee Hansard*, 30 July 2018, p. 62.

51 Mr Dean Knudson, Deputy Secretary, Environment Protection Group, Department of the Environment and Energy, *Committee Hansard*, 30 July 2018, pp. 62–63.

52 For example, see issues raised by: Science Party, *Submission 4*, p. 1; Environmental Justice Australia, *Submission 11*, pp. 1–3; and Greenpeace Australia Pacific, *Submission 17*, p. 1.

53 Queensland Government, *Submission 9*, p. 1.

54 350.org Australia, *Submission 10*, p. 4.

3.52 Environmental Justice Australia (EJA) highlighted that information about the Commonwealth Grant Rules and Guidelines suggest that:

Sometimes it can be difficult to distinguish between a grant and a procurement, particularly where a procurement is on behalf of a third party. With a grant, the recipient receives financial assistance from the Commonwealth to help achieve its own goals (consistent with Commonwealth goals), whereas in a procurement, the Commonwealth is usually purchasing goods and/or services that assist the Commonwealth in achieving its own goals.⁵⁵

3.53 EJA suggested that the way the Partnership had been framed by the Government clearly showed it was awarded to achieve 'Commonwealth goals' and should be considered as a procurement. It cited a number of Government comments, including comments made by Senator the Hon Simon Birmingham in Senate Estimates:

The government made a budget decision to make a record investment into the reef, informed by advice from a range of sources, including the [GBRMPA], as we usually would, in relation to the budget bids that ministers make about their portfolio priorities. The government then considered the foundation to be an appropriate vehicle to deliver that investment in the reef and rightly commenced negotiations with the foundation about how that might occur. As you have heard before, those negotiations are ongoing.⁵⁶

3.54 Greenpeace Australia Pacific agreed that the Partnership should have been awarded as a procurement, rather than a grant, and so:

...needs to comply with the Commonwealth Procurement Guidelines, which require open tender, due diligence and transparency. There are criminal offences for failure to adhere to these guidelines. The partnership is a critical component of the Reef 2050 plan, and therefore a core function of government. Provision of government services such as the Reef 2050 plan should either be delivered by government or by third parties through an open tender.⁵⁷

3.55 In responding to concerns about the use of a grant process, the Department of Finance informed the committee that it was up to departments to determine whether funding could be delivered as procurement or grant mechanisms:

The framework that operates within government is a devolved financial framework. In that framework, people have different responsibilities. In particular, what are called accountable authorities, which are secretaries in the case of a department and boards in the case of a corporate entity, have

55 Environmental Justice Australia, *Submission 11*, pp. 2–3.

56 Environmental Justice Australia, *Submission 11*, p. 2.

57 Greenpeace Australia Pacific, *Submission 17*, p. 1. See also Cape York Regional Organisations, *Submission 16*, p. 4.

responsibilities and obligations. Those responsibilities and obligations particularly fit under the Public Governance, Performance and Accountability Act, and that set of obligations then flows through a number of other documents. So there are rules that are made under that act, some that relate to grants, some that relate to procurement. One of the obligations that apply to any agency in a grant-giving context is to satisfy itself, by reference to the guidelines and the rules, whether something is a procurement or whether something is a grant. If it's one thing, then there's one set of requirements that apply to it. If it's the other thing, then a different set of requirements apply to it.

The first obligation on the part of a department is to satisfy itself about what it is. There are extensive materials published and made available by Finance to departments to help them do that. To start with, there are the grant rules and guidelines, which are really the top level of things, and they specify things that people must do and things that people should do. Sitting underneath that, there are other arrangements. In particular, there is what we call a resource management guide, which is, if you like, an explication in greater depth of some of the issues in particular cases.⁵⁸

3.56 The Department of Finance also noted that the Department of the Environment and Energy had fulfilled all relevant obligations:

I would draw the committee's attention to a document which called *Grants, procurements and other financial arrangements: resource management guide No. 411*. It is publicly available and it makes clear some of the things that really would lead an organisation or an accountable authority to make a judgement about whether something fits clearly in one camp or clearly in the other. As the department of the environment have shown in their submission dated 10 September, they did go through that process, and they went through it rigorously and they reached a view, which they have explained, that this was a grant rather than a procurement.⁵⁹

The delivery of funds in the 2017–18 year as a single payment

3.57 Despite being announced in the lead up to the 2018–19 Budget, being included in the 2018–19 Budget papers, and the Foundation not being ready to develop and administer the program until 2018–19, the appropriations required for the Partnership were made for the 2017–18 financial year. In addition, although the Partnership is a six-year program, the \$444 million in funding for the Partnership was appropriated in its entirety in 2017–18, rather than being spread over the forward years.

58 Dr Stein Helgeby, Deputy Secretary, Governance and APS Transformation, Department of Finance, *Committee Hansard*, 21 September 2018, p. 41.

59 Dr Stein Helgeby, Deputy Secretary, Governance and APS Transformation, Department of Finance, *Committee Hansard*, 21 September 2018, p. 41.

3.58 During a Senate Budget Estimates hearing in May 2018, the Minister for Finance argued that appropriating the entire funds needed for the Partnership in one year provided certainty, and would ensure the Foundation has 'the necessary resources...on an ongoing basis for what is a very high policy priority'. He continued that it also sent a strong signal to potential donors to the Foundation, which would help it leverage philanthropic funds:

This is a reflection of the government's policy decision that doing it this way provides certainty of funding for on-ground Reef protection activities, and it sends a very strong signal to potential investors that the government is committed to long-term protection of the Reef.⁶⁰

3.59 The committee notes that Mr Turnbull's evidence also suggested that the decision was made regarding the appearance of future budgets, as the expenditure of Commonwealth money in the 2017–18 year would not affect forward estimates and future Budgets.⁶¹

3.60 Officers of the department provided further justification for the provision of the grant in one payment during Budget Estimates in May 2018:

In a number of different areas where we have tried to set up partnerships and, in particular, focused on trying to increase leveraging from other sources, whether it is states and territories or private sector, the department's experience has been that one of the key things external funders will look for is solid and firm commitment by the Commonwealth government behind that. With the scale of this investment being the largest investment ever in the history of any Australian government in the reef, that is a pretty strong signal to the market. For the Great Barrier Reef Foundation, which over the last more than a decade has managed to raise \$80 million, that will take them into a very different space in terms of their ability to raise additional funding.⁶²

3.61 The Department of Finance also commented that it was not unusual for grants to be awarded as a single payment:

A grant includes, for example, the ability to provide financial assistance through a co-contribution or to build capacity. It's provided in order to, amongst other things, support the purposes, or enable both government's policy purposes and the purposes of the relevant organisation to be met. I don't think it's right to characterise grants as being structured in exactly the way your question was implying [as being delivered over a number of

60 Senator the Hon Matthias Cormann, Minister for Finance, *Senate Finance and Public Administration Legislation Committee Hansard*, Budget Estimates 2018–19, 23 May 2018, p. 75.

61 See this chapter above.

62 Mr Dean Knudson, Deputy Secretary, Environment Protection Group, Department of the Environment and Energy, *Senate Environment and Communications Legislation Committee Hansard*, Budget Estimates 2018–19, 21 May 2018, p. 19.

years and subject to performance indicators being met]. They can be structured many different ways and they can be made, and often are made, as one-off payments. That's, in itself, not a definition of a grant.⁶³

3.62 Some evidence received by the committee raised concerns about the delivery of the grant as a single lump sum, rather than being staggered over the six years of the grant. For example, the Australian Conservation Foundation (ACF) argued that this single payment meant there was 'obvious disconnect between tangible spending through Reef 2050 Plan actions and the accounting of overall Reef investment in the Federal budget'.⁶⁴

3.63 Mr Matt Rose, a former Treasury official now an economist for the ACF, outlined governance and oversight risks associated with such an unprecedented single payment, as well as noting its irregularity:

With a small foundation being given this much money in one hit, there are obviously governance risks. If you genuinely wanted to build the capacity of the foundation, surely you would get into some kind of grant arrangement that helped them build the capacity and then accelerated the funding in the out years...I can't remember in my time [at Treasury] seeing any arrangements quite like this, where you front-load all the money and then the foundation comes out later and says, 'Oh we're going to spend it over six years.' It was put in last year's budget, two weeks before the next year's budget. So clearly they wanted money out the door.⁶⁵

3.64 In relation to the arguments about ensuring continuity of funding, Mr Rose stated:

In terms of certainty, certainty is not granted like this to government departments, NGOs and the legal aid sector in the work they do. They don't get a chunk of money and six years to spend it. They get money over the forward estimates, and every year they worry about whether the money's going to be taken off them in the budget process.⁶⁶

3.65 It has also been noted that the transfer of this sum as a single payment, rather than as a Budget line working over the forward estimates, will mean that the grant accrues considerable interest benefitting the Foundation, rather than the Commonwealth Budget. Under the funding agreement, the Foundation can use up to \$22.5 million of the interest accrued from this payment to supplement its

63 Dr Stein Helgeby, Deputy Secretary, Governance and APS Transformation, Department of Finance, *Committee Hansard*, 21 September 2018, p. 43.

64 Australian Conservation Foundation, *Submission 2*, pp. 3–4.

65 Mr Matt Rose, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 8.

66 Mr Matt Rose, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 8.

administrative costs.⁶⁷ As a result of the full grant being advanced as a single payment, it has been estimated that the loss to the Commonwealth will be around \$11 million in public debt interest.⁶⁸

Size of other Commonwealth grants awarded in 2018

3.66 The committee understands that the \$444 million Partnership is an unprecedentedly large grant made by the Commonwealth. Since it became compulsory for all Commonwealth entity grants to be listed on the online database Grant Connect in December 2017, the Partnership is the single largest grant awarded, almost twice the size of the next-largest Commonwealth grant made in 2018.⁶⁹

3.67 From December 2017, five other Commonwealth grants have exceeded \$100 million. Only one exceeded \$200 million, to the Australian Rail Track Corporation, a Government statutory corporation for an infrastructure upgrade of \$235 million on the North East Rail Line in Victoria. In announcing the grant it was noted that:

Multiple review and endorsement processes were undertaken by agencies including Transport for Victoria, Rail Projects Victoria, Public Transport Victoria, V/Line, the Federal Department of Infrastructure, Regional Development and Cities as well as the Australian Rail Track Corporation.⁷⁰

3.68 Four other grants exceeded \$100 million, two in aged care services (\$127 and \$136 million) and two for services for people with disabilities (\$157 and \$174 million).⁷¹

67 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 2.

68 Lisa Cox, '\$444m reef grant to cost taxpayers extra \$11m, Labor says', *Guardian Online*, 16 August 2018, www.theguardian.com/environment/2018/aug/15/444m-reef-grant-to-cost-taxpayers-extra-11m-says-labor-mp (accessed 8 November 2018).

69 From December 2017 the details of all Commonwealth grants must be published on a central government repository. See www.grants.gov.au/?event=public.home (accessed 25 October 2018).

70 The Hon Michael McCormack MP, Deputy Prime Minister, 'Feds sign off on \$235 million North East Rail Line Funding', *Media Release*, 11 October 2018.

71 See the Commonwealth register of grants at www.grants.gov.au/?event=public.home (accessed 25 October 2018).

Chapter 4

Matters raised in evidence about the \$444 million Foundation Partnership

4.1 This chapter sets out the issues raised in evidence about the \$444 million Foundation Partnership, including:

- that such a large increase in funding for the Reef should have been administered by a public agency, to ensure proper oversight, transparency, accountability and value for money;
- the serious challenges and risks for the Foundation in delivering the agreement given its size and unpreparedness, particularly in upscaling its operations, while keeping down administration costs, and maintaining transparency in its awarding of funding;
- the potential for unnecessary duplication of funding, administration costs and governance frameworks in the Reef sector;
- the need to manage conflicts of interest effectively, both within the governance of the Foundation and more broadly in the Reef-related sector;
- that the Foundation's investment of Commonwealth funds should avoid industries that contribute to climate change or other causes of damage to the Reef; and
- the serious shortcomings of Commonwealth investment concentrated on Reef repair and rehabilitation, rather than on addressing underlying causes of environmental damage to the Reef, particularly climate change.

Choice of an organisation outside of government

4.2 The committee was interested in why a single organisation outside of government was chosen to administer \$444 million in Commonwealth funds, instead of this investment being managed by experienced and expert Commonwealth agencies. On the choice of a beneficiary outside Government for such a substantial grant, the former Prime Minister, the Hon Mr Malcolm Turnbull, stated that it was due to the resolve of the Treasurer and Minister for Finance to fund a Reef proposal, 'so long as it was expensed in 2017/18', which:

...was the reason why a partner *outside the Commonwealth Government* sector was sought; it also brought with it the possibility of leveraging the Commonwealth's contribution with private sector contributions.

The arrangement allowed the Government to book the grant expenditure in one year, 2017/18, notwithstanding that the investment of the funds in the

various reef projects by the GBRF would take place over a period of six years.¹

4.3 The choice of using a non-government organisation to deliver such a substantial public investment was criticised by some stakeholders. For example, Mr Matt Rose, Economist with the Australian Conservation Foundation (ACF), told the committee that funding for Reef activities would be delivered to on-ground projects more quickly through established Commonwealth bodies:

...obviously [the Foundation] have to build their expertise and their scale very quickly, whereas if the money was given directly to government agencies or dispensed through the environment department grant process then that money would hit the ground quicker into Great Barrier Reef science, which is extremely important.²

4.4 Mr Christian Slattery, a Campaigner for the ACF, expanded on this argument and stated:

...a further comparison could be drawn with the Great Barrier Reef Marine Park Authority [(GBRMPA)], whose operating revenue in 2016–17 was about \$61.8 million. If [the \$444 million] funding package is spread over the six years that the foundation have suggested it will be, that would be an operating revenue of about \$74 million a year. The point we would make is that there are existing Commonwealth agencies that are already delivering rehabilitation, research, reef restoration projects, and doing so very successfully, so it is concerning to us why that money would be redirected to a private foundation that does not have the comparable levels of experience and delivery of programs at this scale.³

4.5 It was also noted that Commonwealth agencies are subject to greater oversight than private organisations. For example, Ms Anna Maria Arabia, Chief Executive, Australian Academy of Science, suggested that:

Historically, where a government department has been able to administer that, you can ensure transparency, accountability and all of those features I outlined earlier. I would like to think and believe that the Great Barrier Reef Foundation would be able to incorporate all those principles and would be working with government. Time will tell.⁴

1 The Hon Malcolm Turnbull, *Answers to written questions taken on notice* (received 1 October 2018), p. 1.

2 Mr Matt Rose, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 7.

3 Mr Christian Slattery, Campaigner, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 7.

4 Ms Anna Maria Arabia, Chief Executive, Australian Academy of Science, *Committee Hansard*, 21 September 2018, p. 27.

4.6 Other submitters expressed disappointment that the \$444 million of expenditure in the Reef was not given to GBRMPA. They noted its good track record of disbursing funding, program delivery, consultation through the sector and that it had sufficient staffing levels to drive positive outcomes for the Reef. For example, the Australian Coral Reef Society Inc. (ACRS) suggested it:

...would have preferred that such a large amount of taxpayer funding for such an important block of work was delivered through a government agency with reef expertise, to coordinate decisions on allocation of money. This organisation (for example, GBRMPA) could have consulted with other government, academic and research organisations to determine the most effective ways to use the funds.⁵

4.7 The submission made by the Science Party expressed a hope that the Foundation would work with GBRMPA to identify efficient and effective measures to assist the Reef. It commented that:

It is simply not acceptable to give such a large amount (or any amount) of public money in such an unprecedented manner, to an organisation that has neither planned nor applied for it.

The absurdity of the grant is heightened by the fact that the Great Barrier Reef Marine Park Authority (GBRMPA; the agency established by the government to manage and advise on the reef) has an annual budget in the tens of millions, considerably greater than that of the GBRF, but well below the grant amount.⁶

4.8 Dr Russell Reichelt, the Chairman of GBRMPA at the time he gave evidence, told the committee that governments had the prerogative to set budget allocations, and that GBRMPA was supportive of the Foundation Partnership:

The budget process is just a matter for the government. Agencies like ours are advised after their processes are finished...Don't forget that the scope of the work on the \$443 million is in areas such as R and D and catchment management, which are not typically things that we would get funding for anyway...We've been well looked after in terms of our base funding, and then these funds—however they're administered; through whatever partnership—for us is good news for the reef.⁷

5 Australian Coral Reef Society Inc., *Submission 6*, p. 3.

6 Science Party, *Submission 4*, p. 1.

7 Dr Russell Reichelt, Chairman, Great Barrier Reef Marine Park Authority, *Committee Hansard*, 30 July 2018, p. 26.

4.9 CSIRO did not make substantive comment on the Government's choice of the Foundation Partnership to disburse funds for Reef-related research and activities. However, Dr Larry Marshall, Chief Executive Officer of CSIRO, reflected:

CSIRO is a delivery organisation, and so are AIMS and GBRMPA. We see the foundation more as management of funding...and leveraging other organisations to actually deliver programs.⁸

4.10 The committee asked the Australian Institute of Marine Science (AIMS) directly if it would be capable of administering such a substantial Commonwealth investment in the Reef. Dr Paul Hardisty, the Chief Executive Officer of AIMS, told the committee:

I'll tell you exactly what I would have said [were this offered]. I would have said, 'We are probably not the right place to put the whole \$443 million because there are a lot of aspects that are operational and we are a research agency.' A lot of what's being funded in the other components isn't research. Are we of a scale and do we have the experience and capability to manage, for instance, \$100 million for reef restoration and adaptation? Absolutely, we are and we do.⁹

4.11 It was also noted in evidence that the Commonwealth has significantly depleted funding for the department. Mr Lyndon Schneiders, National Director of The Wilderness Society, stated that the \$444 million for the Partnership was 'extraordinary in the context of the gutting and aggressive cuts that have been made by this government to their own environment department'.¹⁰ Mr Matt Rose, an economist with the ACF, argued that the funds for the Partnership could be disbursed by the department itself:

I don't think the government needs to give a private organisation with links to some of Australia's biggest companies money to build capacity when it's ripped money out of the environment department. Give \$45 million to the environment department to build back some of that capacity and let them do reef grants as well. It's too much money to give a tiny foundation like this, in our opinion.¹¹

Potential loss of the Reef's World Heritage status

4.12 One reason put forward for the Commonwealth's establishment of the Partnership, was that it had partially been motivated by the short-term need to meet

8 Dr Larry Marshall, Chief Executive Officer, CSIRO, *Committee Hansard*, 21 September 2018, p. 13.

9 Dr Paul Hardisty, Chief Executive Officer, Australian Institute of Marine Science, *Committee Hansard*, 21 September 2018, p. 34.

10 Mr Lyndon Schneiders, National Director, The Wilderness Society, *Committee Hansard*, 21 September 2018, p. 16.

11 Mr Matt Rose, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 8.

spending commitments in the Reef 2050 Plan Investment Framework. This commitment, endorsed by UNESCO, was to spend a total of \$716 million on measures protecting the Reef between 2015 and 2020.¹²

4.13 Evidence received by the committee argued there has been a serious shortfall in the Government's delivery of Reef-related investment, which meant there is a real risk that the World Heritage Listing Committee of UNESCO could potentially de-list the Reef as a World Heritage Area.¹³

4.14 Mr Rose, ACF, suggested that a reclassification of the Reef's UNESCO status could be disastrous:

Obviously, it's a terrible look for the government with this iconic marine park that they've neglected to look after. The World Heritage Committee is quite a powerful committee in terms of the publicity it can generate in instructing or letting people know that it has been listed as in danger. There are ramifications for the country with that listing, as well, in terms of tourism and our role as a player in the international diplomacy. It's a very big deal. So the government does have that imperative to try and spend the money and show that it's trying to do something about the reef.¹⁴

4.15 Mr Rose also provided the committee with a summary of this shortfall:

The federal government promised that it would spend \$716 million between 2015 and 2020 on their place in the Reef 2050 plan. If we take the Great Barrier Reef Foundation money as it's been budgeted, which is in last year's budget, and say, 'Well, that's spent,' the government pretty much meets that commitment to the World Heritage Committee. There's a small shortfall of \$34 million.¹⁵

4.16 The department responded to this assertion by noting that ACF estimates of a shortfall in Commonwealth expenditure on Reef-based activities were not based on the full range of Commonwealth measures being undertaken. These included:

...other Departmental programs that support Reef 2050 Plan delivery, such as the National Environmental Science Program, as well as funding to the Great Barrier Reef Marine Park Authority, the Australian Institute of Marine Science, the Australian Maritime Safety Authority and other

12 This view has been advanced by Geoff Cousins, a former President of the ACF. See Mike Seccombe, 'Accounting trick frames reef grant', *The Saturday Paper*, www.thesaturdaypaper.com.au/news/politics/2018/08/18/accounting-trick-frames-reef-grant/15345144006727 (accessed 7 November 2018).

13 See, for example, Australian Conservation Foundation, *Submission 2*, pp. 6–7; WWF-Australia, *Submission 5*, pp. 2 and 5; and The Wilderness Society, *Submission 13*, p. 5.

14 Mr Matt Rose, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 8.

15 Mr Matt Rose, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 9.

Australian Government agencies contributing to delivery of Reef 2050 Plan actions.¹⁶

4.17 However, the committee notes that the report of the Auditor-General stated that the department had raised this matter with the Commonwealth as a serious concern, stating in its timeline that on 16 June 2017:

Government advised by the [department] of the need to 'escalate the response to the declining health of the reef' to avoid an 'in-danger' listing by the World Heritage Committee.¹⁷

Concerns about Partnership delivery and administration

4.18 The committee explored some potential areas of concern that were raised in evidence regarding the Foundation's capacity to manage such an unprecedented level of Commonwealth funding. This went to several areas, including: risks from a rapid upscaling of the Foundation's budget and workload; administration costs; avoiding unnecessary duplication and complexity in the Reef sector managing conflicts of interest; and ensuring transparency in funding disbursement.

Risks of upscaling and program delivery

4.19 As outlined in the previous chapter, the departmental evaluation of potential risks for the \$444 million grant suggested that the Foundation would face challenges to upscale its work, develop its 'delivery capacity' and in addressing a lack of expertise in crucial component areas of the Partnership.¹⁸

4.20 Some evidence considered over the course of this inquiry also noted the significant challenges the Foundation faces, particularly in increasing its capacity and administration of such a massive growth in its budget.¹⁹ For example, 350.org Australia submitted:

The organisational challenges associated with this kind of rapid increase in revenue are vast. It will take time and expose the Foundation to substantial execution risk. It is important to remember that the primary delivery mechanism for the *Reef 2050 Plan*, the Foundation, currently has only six full-time and five part-time employees. Allowing a single organisation, that has primarily functioned as a grantmaking institution to third party

16 Department of the Environment and Energy, *Submission 7*, Supplementary Submission, p. 5.

17 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19 (16 January 2019), p. 19. This is discussed further in chapter five of the committee's report.

18 Department of the Environment and Energy, Documents Produced pursuant to the Senate Order agreed on 21 August 2018 (notice of motion no. 978), Attachment A3 (Proposal Evaluation), pp. 5, 7, and 11.

19 For example, see: WWF-Australia, *Submission 5*, p. 2; Australian Coral Reef Society, *Submission 6*, p. 2; and 350.org Australia, *Submission 10*, pp. 4–5.

beneficiaries, to essentially hold the GBR recovery program in its palm, is a huge risk both for the reef and for the \$444,000,000 of public funds.²⁰

4.21 The ACF commented that, as well as the significant increase in budget, the Foundation would also have to manage to transition from being a grant making organisation concentrated on research, to disbursing funding for projects:

Historically, the Foundation has primarily functioned as a grant making institution issuing research funding to third party beneficiaries. This is the principal way in which the Foundation has delivered programs and activities related [to] Reef restoration and protection. It remains unclear whether a pipeline of viable research and other projects exists at the scale required to match the Foundation's increase in funding capacity. A shortage of viable projects ready and able receive funding may restrict the Foundation's ability to deliver *Reef 2050 Plan* outcomes through its existing operating model.²¹

4.22 While noting that the Foundation has a good record of fundraising and corporate engagement, the ACRS commented on the limitations of its staffing arrangements, noting that:

...it does not have the depth of full time staff fully occupied with reef issues that an organisation like the GBRMPA has. A funding allocation of this magnitude will require significant expansion of the GBRF team to responsibly manage the expenditure and ensure the directed outcomes for the GBR have the best chance of success. Appropriate resourcing for administration will be important, as will selection of appropriate staff to fill these and project management roles.²²

4.23 Mr Stephen Oxley, a First Assistant Secretary at the department, recognised that 'there were and would be risks or challenges for the Foundation in stepping up' to the scale of activity associated with the \$444 million Partnership. However, he assured the committee that its governance arrangements and 'the quality of the people who sit on the foundation board' meant that, 'while the scale of the investment was beyond what the foundation was managing now, it would be able to step up'. Mr Oxley added:

It's also important to remember that it is not just the foundation that is going to be delivering this. It is going to be partnering with organisations throughout Queensland, primarily, in the delivery of these funds. So we expect that it will be doing partnership agreements with the regional natural resource management bodies. We expect that there will be skin in the game, so to speak, for the Australian Institute of Marine Science, because the

20 350.org Australia, *Submission 10*, p. 5.

21 WWF-Australia, *Submission 2*, p. 4.

22 Australian Coral Reef Society, *Submission 6*, p. 2.

foundation isn't going to become overnight a marine science delivery organisation.²³

4.24 Dr Marshall, CSIRO, confirmed that the Foundation would also be assisted in meeting its new responsibilities by experts seconded from research organisations and universities. This includes Dr Christian Roth, a CSIRO Senior Principal Research Scientist assigned to assist the Foundation with the design and preparation of the program from July to December 2018.²⁴

4.25 The committee notes that the Foundation's Resourcing Plan provides an indication of the growth in staffing levels to 1 July 2019.

Table 4.1–Great Barrier Reef Foundation staffing levels

Department	Staffing levels at 1 July 2018	Forecast staffing levels at 1 July 2019
Executive	1	1
Projects	4	15
Development & Fundraising	3	9
Communications	3	6
Operations and Finance	4	8
Total	15	39

Note: Staffing levels are recorded as head count and not FTE. The FTE for the GBRF will be determined and clarified during the transition period and as part of the implementation phase.

Source: Great Barrier Reef Foundation, *Resourcing Plan*, p. 5.

4.26 The plan goes on to state that the Foundation has:

...employed flexible short-term approaches to scaling up its personnel such as seconding experts from other organisations and engaging with consultants. This offers value for money in the first six months of the Reef Trust Partnership when there is an immediate and heightened need for project design and subject matter experts. It is anticipated that the number of consultants will reduce from 1 January 2019 when longer term staffing arrangements are fulfilled.

It is anticipated that subcontracting and outsourcing will be amongst the methods used to fulfil our resourcing needs. The Agreement clearly states the requirements for all contracts using funds from the Reef Trust

23 Mr Stephen Oxley, First Assistant Secretary, Heritage, Reef and Marine Division, Department of the Environment and Energy, *Senate Environment and Communications Legislation Committee Hansard*, Budget Estimates 2018–19, 21 May 2018, p. 102.

24 See Dr Larry Marshall, Chief Executive, and Dr Christian Roth, Senior Principal Research Scientist, CSIRO, *Committee Hansard*, 21 September 2018, pp. 1 and 2 respectively.

Partnership. The GBRF will ensure all contracts comply with the Agreement and the GBRF's Procurement Policy.²⁵

4.27 This information concurs with the concerns that were raised in evidence received by this committee, as well as similar evidence considered by the ANAO, that the Foundation would need to lift its staffing numbers significantly to scale up its operations, including significant expenditure on external consultants.

Accountability and capacity in meeting fundraising targets

4.28 The Government stated that a central reason for the selection of the Foundation for a Partnership outside government was its fundraising track record, particularly the potential it has to leverage private and philanthropic donations for Reef-based research and programs. This was also cited in the department's Reef Trust–Great Barrier Reef Foundation Partnership Proposal Evaluation:

The Foundation has demonstrated its capacity to attract co-investment (refer Proposal Section 6.4). Fundraising is core business for the Foundation and it has a good track record of raising funds and partnering with the national and international non-government sector. The Proposal includes evidence of fundraising for reef protection projects, including \$10.45 million from BHP Billiton for the Raine Island Recovery Project and for eReefs. For the Australian Government's funding of \$12.5 million for the Foundation's Resilient Reefs portfolio of projects, the Foundation raised \$25 million in additional cash and in-kind contributions. In 2009, the Foundation developed and published a \$100 million project portfolio 'Resilient Reefs Successfully Adapting to Climate Change', which was co-developed with input from more than 75 people representing 15 organisations (refer Proposal Section 6.5 and Appendix 3). The Foundation's proposal also notes it will launch and implement a \$100 million fund raising campaign which was approved by the Foundation's Board in 2018.²⁶

4.29 However, some evidence examined by the committee questioned how the Commonwealth could make the Foundation accountable for its fundraising efforts in the non-government sector, and also pointed to instances where the Foundation had not been able to meet its funding targets from private donations.

4.30 The committee sought evidence from the Foundation about how it would ensure its targets leveraging non-government sources of funding were met in a transparent and accountable way. Although Ms Marsden, Managing Director of the Foundation, acknowledged the role of the Commonwealth, she also suggested that the Foundation would ultimately be accountable to the public:

25 Great Barrier Reef Foundation, *Resourcing Plan*, p. 6, www.barrierreef.org/uploads/Resourcing%20Plan%20FINAL%20inc%20RT%20logo.pdf (accessed 24 January 019).

26 Department of the Environment and Energy, *Submission 7*, Supplementary Submission Attachment D (Reef Trust–Great Barrier Reef Foundation Partnership Proposal Evaluation), pp. 4–5.

I think we remain accountable to our partners in this, which are the Reef Trust, the department and government, and questions should be asked, particularly if we start to publish the kinds of targets and the endeavours that we hope to do. But the bottom line is: we're accountable to the public. The public want to see as much money raised and directed towards reef projects, so, for us to hold our heads high and really be able to have the role and the status of being the lead charity for the reef, we have got to deliver. So we are accountable to the reef and we are accountable to the Australian public, absolutely.²⁷

4.31 The committee also sought information on a water remediation project for the Cape York Peninsula that the Foundation attempted to undertake in partnership with the Queensland Government. This did not go ahead, allegedly because corporate donors were not attracted to support the project.²⁸ In response to questions, Ms Marsden told the committee:

There was an agreement between the Queensland government, the Office of the Great Barrier Reef, to provide \$3 million of match funding for a project that we could bring a partner into. There was a discussion around a project in Cape York. At the final stage, the partner fell through, but the Queensland government agreed that it would find a new project with us. So that \$3 million matched funding arrangement or offer was moved onto another project, called Reef Islands, which has been fully funded at \$14 million.²⁹

Collaborative Investment Strategy

4.32 On 12 October 2018, the Foundation released its Collaborative Investment Strategy (the strategy).³⁰ The Foundation stated that through the strategy, it will 'amplify the impact of the investment by the Australian Government in the Reef through the continued application of a collaborative investment model'. The Foundation indicated that it would increase the Government's investment by \$300 million to \$400 million over the next six years.³¹

4.33 The strategy is not a detailed work plan. Individual work plans will be developed by January 2019. These will 'remain commercial in confidence, to ensure

27 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 51.

28 See Nicole Hasham, 'Reef charity's fundraising record casts doubt on \$444 million grant', *Sydney Morning Herald*, www.smh.com.au/politics/federal/reef-charity-s-fundraising-record-casts-doubt-on-444-million-grant-20180524-p4zhdt.html (accessed 21 November 2018).

29 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 51.

30 Australian National Audit Office, Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation, Report 22 of 2018–19 (16 January 2019), p. 72.

31 Great Barrier Reef Foundation, *Collaborative Investment Strategy*, p. 5.

the [Foundation's] positioning in a competitive fundraising environment is on compromised'. Secured donations will be published on the Foundation's website.

4.34 The Foundation recognised that 'this strategy will be exposed to uncertainties and unpredictable variabilities in the external environment. To factor this into our planning, a target range for each component has been developed with an overarching collaborative investment financial target set of \$300M – \$400M'.³²

4.35 The fundraising component summary is provided in Table 4.2.

Table 4.2: Fundraising component summary

Component	Description	Target*	Campaign length	Relevant section of strategy
Raised funds				
Capital campaign	The largest marine science fundraising campaign in Australia – an intensive fundraising campaign with a focus on philanthropy and individual giving tied to Reef Restoration and Adaptation Program (RRAP)	\$100M	5 years	Section 4, p7
Corporate giving	Developing corporate partnerships with iconic Australian businesses that deliver impact and enable planned programs, specific initiatives and activities	\$50M	5 years	Section 5, p11
Individual giving	Five-year strategy developed to build awareness of GBRF and acquire new individual donors through regular giving, planned giving, bequests and community fundraising	\$7M	5 years	Section 6, p14
Contributed funds				
Research and delivery partners	Formal agreements with collaborators on projects across the RTP portfolio with an initial focus on RRAP that accurately capture the cash and resource investment made by research and delivery partners	\$200M	5 years	Section 7, p17

Source: Great Barrier Reef Foundation, *Collaborative Investment Strategy*, p. 7.

Administration costs

4.36 Under the terms of the Grant Agreement, the Foundation is allowed to expend up to \$44.5 million of the grant in administration and upscaling costs, which works out to roughly 10 per cent of the initial grant payment total. This is made up of \$22.5 million in administration written into the direct upfront payment of the grant, and the interest on the grant up to a further \$22 million, which the Foundation can use for administration costs.³³

4.37 Some evidence expressed concern with the size of potential administration costs. For example, Mr Rose, ACF, argued:

³² Great Barrier Reef Foundation, *Collaborative Investment Strategy*, p. 6.

³³ 'Overview: Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation', p. 2.

...when you've got an environment department sitting there that gives out grants, why do you have to spend \$45 million, that should be going into reef science, on building the capacity of a private organisation? That's a question we'd ask, and it's something we're very concerned about. That money should be going into reef science, not into administration, because you have a perfectly competent department that could do that administration.³⁴

4.38 Mr Slattery, also from the ACF, commented that the Partnership would create unnecessary administration costs, particularly when the Foundation redirects Commonwealth funding back to Commonwealth agencies. He noted that this had happened in the past, with the Foundation awarding funding to bodies including AIMS, GBRMPA and universities. Mr Slattery added:

I think this raises the spectre that this money is being provided from the Commonwealth to the foundation and that that money will then be delivered back to the Commonwealth via, essentially, a churn process where the foundation will obviously apply administration costs et cetera. To be frank, it's a really inefficient use of Commonwealth funds.³⁵

4.39 This concern was shared by Greenpeace, which stated:

Australia's lead scientific organisations, including the CSIRO, [GBRMPA], the [AIMS] and Australia's universities, play a critical role in Reef-related projects. Indeed, the lion's share of the [Foundation's] disbursements to date have been to these agencies. It is poor practice to introduce additional administrative costs and overheads by channeling money through a Foundation backed by private interests, especially when a key member of the Reef Trust Partnership Management Committee is also a director of Origin Energy.³⁶

4.40 Mr David Barnden, the Principal Lawyer with Environmental Justice Australia, informed the committee that he had examined the Foundation's accounts, and believed that its administration costs were in the order of 35 per cent. He stated:

The foundation does not necessarily take substantive actions to achieve its goals; instead, it distributes the funds to others to do this. These are called project costs in the accounts. Over the last five years, the foundation's average revenue was \$7.7 million per year. Of that, it spent just over \$5 million each year on project costs. This means around 35 per cent of the funds used by the foundation are eaten up as administrative costs and this is the high end of administrative costs for a charity. The ACNC recognises difficulties in equating higher administrative costs with effectiveness. However, its guidance provides the example of a charity that distributes

34 Mr Matt Rose, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 7.

35 Mr Christian Slattery, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 12.

36 Greenpeace Australia, *Submission 17*, p. 1.

funds to others as having administrative costs of 10 per cent whereas organisations undertaking the work had administrative costs of 35 per cent. We think that the minister and the department should have reviewed the foundation's accounts and come to a view on the effectiveness of its previous oversight of funding.³⁷

4.41 On the administration costs of the Foundation, Ms Marsden, its Managing Director, suggested:

We have a firm commitment to cap our overheads at 20 per cent, and we make a firm commitment to all of our donors that 80c in every dollar gets to the reef. The contract we have with the government is very similar to the contract that we have used with the Australian government in the past—and with the Queensland government, where we cap our administrative overheads at 10 per cent.³⁸

4.42 The department also responded to concerns about the administration costs for the Partnership, arguing that they are set lower than for most other Commonwealth grants. Mr Dean Knudson, Deputy Secretary of the department, stated that:

In particular, I think it's important to note here—because this is part of getting at the question of value for money—that normally, when the department administers a grant, we're looking at a 15 per cent cap on administration for the recipient. This is at 10 per cent.³⁹

Adding duplication and complexity to the Reef sector

4.43 The committee received evidence that argued the \$444 million Partnership between the Commonwealth and the Foundation would lead to duplication and increased complexity in the governance frameworks of the Reef-related sector. This perception was apparent in evidence obtained by the committee from stakeholders directly, as well as information made available publicly through FOI processes.

4.44 For example, an email from CSIRO Executive Director, Mr Peter Mayfield, to his colleagues shortly after the grant was announced, indicates he perceived that the Partnership could add complexity to the sector, and commented that it 'would be good if [Commonwealth departments] could review the governance. It's getting very messy with layers upon layers'.⁴⁰

37 Mr David Barnden, Principal Lawyer, Environmental Justice Australia, *Committee Hansard*, 30 July 2018, p. 14.

38 Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 46.

39 Mr Dean Knudson, Deputy Secretary, Environment Protection Group, Department of the Environment and Energy, *Committee Hansard*, 30 July 2018, p. 66.

40 CSIRO, Documents Produced pursuant to the Senate Order agreed on 20 June 2018 (notice of motion no. 857), Document 13, p. 1.

4.45 Information provided by AIMS expressed concern on governance issues in initial meetings with the secretaries of the Departments of the Environment and Energy, and Industry, Innovation and Science:

AIMS raised not 'reinventing the wheel' with additional layers of governance in a space where several well established advisory bodies and plans are already in place (Reef 2050 plan, Reef Advisory Committee, Independent Expert Panel); details of how the funding would be managed; whether the \$100m earmarked for science would be guided by the current RRAP feasibility study (which the government had funded with \$6m earlier in the year) and to what extent; the ability of the GBRF funding to enable a coordinated, collaborative approach among the nation's science agencies and universities; and whether the current RRAP feasibility study should be altered to accommodate the changed funding environment.⁴¹

4.46 Mr Hardisty told the committee at its 21 September 2018 hearing that there were still some areas that were still uncertain in the Foundation Partnership's governance:

At the time, which was only a few weeks—just two weeks or so I think—after the announcement, there was very little clarity about how this was going to unfold, and there was concern about how the funds would be managed, organised, delivered and passed through. We didn't know. You have to understand that for AIMS this is material, then it goes to council and it needs to be discussed. [At the next council meeting] I'm going to tell them what I just told you: we've got more clarity but there are no guarantees.⁴²

4.47 Some stakeholders emphasised that the Commonwealth and Queensland Governments should maintain responsibility for the governance and delivery of the Reef 2050 Plan.⁴³ WWF-Australia called for these matters to be clarified following the new role of the Foundation in the Reef sector:

The new role of the Foundation does not mean that the Australian and Queensland governments will not need to meet their Reef responsibilities. In fact it will be critical that the roles and responsibilities of each entity is set out, so there is clarity around delivery and the ability to assess performance.

For example, both governments have agreed on new pollution reduction targets specific to the 35 catchments that flow into the Great Barrier Reef. The actions and investment needed to achieve these targets must be clearly

41 These concerns were also addressed in answers to questions on notice given to the committee by the Australian Institute of Marine Science (AIMS), *Answers to questions taken on notice, public hearing, Canberra, 21 September 2018* (received 5 October 2018) p. 4.

42 Dr Paul Hardisty, Chief Executive Officer, Australian Institute of Marine Science, *Committee Hansard*, 21 September 2018, p. 32.

43 For example, see: WWF-Australia, *Submission 5*, p. 1; Australian Academy of Science, *Submission 14*, p. 3.

set out—and then responsibility assigned to either the Australian or Queensland government or the Foundation. Annual report cards should assess the performance of programs undertaken by the three separate key investors.⁴⁴

4.48 Regarding the potential for the Foundation Partnership to add a layer of complexity and administrative costs to Reef funding, the committee notes that the first Reef Trust Partnership funded project announced by the Foundation was an award of \$574 000 to AIMS, which is a Commonwealth agency.

4.49 This grant is to undertake a health check of remote far northern reefs. In the media release announcing the project, Dr Hardisty, AIMS, seemed to indicate that these activities had been part of the agency's ongoing 'commitment to survey the current health of the Great Barrier Reef, as it has done every two years for the past 35 years'.⁴⁵

Ensuring transparency in funding decisions

4.50 During Senate Budget Estimates, the department indicated that the Foundation's scientific body, the International Science Advisory Committee (ISAC), would be used to provide detailed analysis on projects and to provide the Foundation 'with some guidance on what they think would be appropriate projects to fund'.⁴⁶ Nevertheless, stakeholders queried how the Foundation will make decisions about the allocation of funding to recipients.

4.51 The ACRS emphasised that it considers the Foundation has a good record of supporting Reef projects and engaging with stakeholders. However, it advised the committee that:

We strongly encourage that a requirement be incorporated into this award for the GBRF to establish a clearly articulated strategy for open, democratic, competitive and strategic allocation of these government funds. While we understand that the funds will be used for addressing strategic research priorities that have already been set, we maintain that they should be allocated in a manner that potentially galvanizes meaningful critical inquiry across the whole research community.⁴⁷

4.52 Submitters also questioned whether it would be appropriate for individuals who provide advice to the Foundation to also be eligible to receive funds disbursed

44 WWF-Australia, *Submission 5*, p. 1.

45 Great Barrier Reef Foundation, 'First Reef Trust Partnership funded project underway', *Media Release*, 21 January 2019, www.barrierreef.org/latest/news/first-reef-trust-partnership-funded-project-underway (accessed 23 January 2019).

46 Ms Deb Callister, Assistant Secretary, Reef Branch, Heritage, Reef and Marine Division, Department of the Environment and Energy, *Senate Environment and Communications Legislation Committee Hansard*, Budget Estimates 2018–19, 21 May 2018, p. 103.

47 Australian Coral Reef Society, *Submission 6*, pp. 3–4.

under the Grant Agreement. For example, although the Academy of Science expressed confidence that the Foundation would apply 'appropriate rigour and transparency in its activities and funding decisions', it specifically argued that individuals who advise the Foundation should not be eligible to receive Partnership funding to avoid potential conflicts of interest.⁴⁸

4.53 The Science Party submitted that there was a risk that donors to the Foundation would seek favour when making submissions for funding under the Partnership:

Probity is a requirement for procurement in the public sector. With no such requirement imposed on the GBRF and without a requirement that contracts be publicly tendered, the process of disseminating the \$444m grant becomes open to abuse. There is even the possibility for other entities to 'buy' favour for contracts on projects using a donation to the GBRF. These donations could then be claimed against tax.⁴⁹

Governance of the Foundation and managing conflicts of interest

4.54 The committee was interested in real or perceived conflicts of interest that may affect the Foundation's work, not only at the board level, but also in the membership of the Chairman's Panel, other donors, and potential funding recipients.

Board of Directors

4.55 In assessing potential risks of the Partnership measure, the department noted that the then Chairman of GBRMPA, Dr Reichelt, was also a member of the Foundation's Board of Directors. The department stated:

The only 'perceived' conflict of interest identified by the Foundation is that Dr Russell Reichelt, a Director of the Foundation, is the Chairman and Chief Executive of the [GBRMPA] which is a potential recipient of grant funding. The Foundation state that Dr Reichelt is a member of the Foundation's Board as an independent expert in his own right, not in his professional capacity as CEO and Chair of GBRMPA.

The Department notes that the Foundation has a policy and procedures relating to conflict of interest in place. The Foundation's process for managing conflict of interests is described in Section 7.7 of their Proposal.⁵⁰

48 Australian Academy of Science, *Submission 14*, p. 4.

49 Science Party, *Submission 4*, Supplementary Submission, p. 3.

50 Department of the Environment and Energy, Senate Order No. 978, Attachment A3 (Proposal Evaluation), pp. 20–21.

4.56 In its evidence to the inquiry, EJA summed up some concerns with the potentially problematic nature of Dr Reichelt's two roles:

We know Dr Reichelt has been a director of the foundation since 31 August 2004 and director of the authority since 1 November 2007. So for one decade he has held these two positions simultaneously and there has been an ongoing relationship, including a financial relationship, between the two entities. Last year, the foundation received \$69,300 from the authority, and the authority received \$200,000 from the foundation. So it seems to me that it's likely there should have been at least some concerns around conflict of interest previously.⁵¹

4.57 Dr Reichelt addressed this issue directly at a committee hearing, stating that:

It's acknowledged that there is a potential for conflict of interest as a result of the roles that I've held and hold and, as such, I declare my interest at every board meeting of both the authority and the foundation. To prevent potential conflict of interest generated by recent discussions around the funding proposal, I removed myself from all discussions held by the board of the foundation when they were considering the approach they received from the Australian government and, going forward, I won't be participating in any foundation board discussions about allocation of funding as a foundation board member while I remain chair of the authority.⁵²

4.58 Other evidence questioned the broader capacity of the Foundation to administer the governance risks of such a significant grant, given the high number of its directors with backgrounds in sectors with vested interests in Reef-related areas, including:

- bodies that compete for funding for Reef activities, particularly GBRMPA;
- industries that benefit from the Reef, such as tourism; and/or
- sectors that may contribute to the environmental degradation of the reef directly (such as fossil fuel producers or mining) or indirectly through investment portfolios (such as banking or finance).⁵³

4.59 For example, the ACF noted that Mr Grant King, a board member and president of the Business Council of Australia (BCA), had recently publicly advocated for 'continued growth' of fossil fuel exports, and argued this was a 'stance completely incompatible with a healthy [Reef] and with the Foundation's stated view'.⁵⁴ Mr Grant

51 Mr David Barnden, Principal Lawyer, Environmental Justice Australia, *Committee Hansard*, 30 July 2018, p. 14.

52 Dr Russell Reichelt, Chairman, Great Barrier Reef Marine Park Authority, *Committee Hansard*, 30 July 2018, p. 25.

53 For example, see: Science Party, *Submission 4*, pp. 3–4; 350.org Australia, *Submission 10*, pp. 4 and 6; Australia Institute, *Submission 18*, Cover letter, pp. 2 and 15.

54 Mr Matt Rose, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 6.

was given an opportunity to speak to this issue at a public hearing. He commented that, while he understood that 'people might see an inconsistency' between his BCA position and Foundation board membership, he did not 'think that inconsistency exists'.⁵⁵

4.60 Mr Barnden, EJA, commented that, whereas Commonwealth organisations like GBRMPA have had to address conflict of interest and diversity issues at board level, the Foundation has no such requirements to do so:

I understand the history of [GBRMPA] is that it has had some criticism around previous directors and their involvement in the fossil fuel industries. Those criticisms have apparently been addressed. We have this review which was released last year which recommends that the directors of the authority hold no cross-directorships with relevant interest groups. The authority also has requirements for characteristics of board members, like having Indigenous representatives and having tourism representatives. So we see that the authority has a balance, but we don't have those same requirements for the foundation.⁵⁶

Members of the Chairman's Panel, corporate partners, and other donors

4.61 Some evidence raised questions about the potential conflicts of interest between the aims of the Partnership and the commercial or professional interests of members of the Chairman's Panel, corporate partners and other donors to the Foundation.

4.62 The committee is aware that members of the Chairman's Panel include representatives of AGL, BHP, ConocoPhillips, Peabody Energy, Rio Tinto, and Shell.⁵⁷ It was suggested to the committee that some of these organisations took positions on critical Reef issues that were irreconcilable with the environmental needs of the Reef, and the Foundation's work under the Partnership. For example, ACF argued:

There are many members of the foundation's chairman's panel who have links to fossil fuel companies, including the president of Peabody Energy, George Schuller. Across the world, Peabody has actively funded climate denial groups.⁵⁸

55 Mr Grant King, Director, Great Barrier Reef Foundation, *Committee Hansard*, 18 September 2018, p. 9.

56 Mr David Barnden, Principal Lawyer, Environmental Justice Australia, *Committee Hansard*, 30 July 2018, p. 18.

57 As noted by, for example: 350.org Australia, *Submission 10*, pp. 4 and 6; Environmental Justice Australia, *Submission 11*, p. 3. A full list of Chairman's Panel Members can be found at www.barrierreef.org/our-partners/chairmans-panel (accessed 15 November 2018).

58 Mr Matt Rose, Economist, Australian Conservation Foundation, *Committee Hansard*, 30 July 2018, p. 6.

4.63 The ACRS noted stakeholders could be concerned that the Foundation 'may have to consider the perceptions of its donors when making decisions on the uses of this funding and the choices of recipients'. The ACRS indicated that any such pressure from stakeholders may be difficult to manage, as the Foundation will not be subject to the same transparency obligations and consultation processes applied by government decision-makers.⁵⁹

The Foundation's awarding of funding

4.64 Some evidence advanced the view that the Foundation should develop effective approaches to the management of conflict of interests in funding decisions, including managing the perceptions of its donors about the projects they chose to fund. For example, ACRS submitted:

We strongly encourage that a requirement be incorporated into this award for the GBRF to establish a clearly articulated strategy for open, democratic, competitive and strategic allocation of these government funds. While we understand that the funds will be used for addressing strategic research priorities that have already been set, we maintain that they should be allocated in a manner that potentially galvanizes meaningful critical inquiry across the whole research community.

We note concern that the GBRF may have to consider the perceptions of its donors when making decisions on the uses of this funding and the choices of recipients, and how this could affect future donations for the GBRF.⁶⁰

4.65 Ms Arabia from the Australian Academy of Science commented that there would be a certain amount of difficulty in the Foundation's seeking appropriate scientific advice for its funding of projects, while ensuring that competition for funds was fair and transparent. Ms Arabia stated:

It is difficult. On the one hand, as you point out, you want the best scientific advisers to be advising the direction going forward, but they can't be responsible for allocating funds...Historically, where a government department has been able to administer that, you can ensure transparency, accountability and all of those features I outlined earlier. I would like to think and believe that the Great Barrier Reef Foundation would be able to incorporate all those principles and would be working with government. Time will tell. You need scientific advisers advising on priorities, but you draw the line—they then need to be competing in a competitive process for those funds. Otherwise, there's an inherent conflict.⁶¹

4.66 The committee is aware that some CSIRO staff have close links to the Foundation, including secondment to assist the Foundation in its transition and

59 Australian Coral Reef Society, *Submission 6*, p. 4.

60 Australian Coral Reef Society, *Submission 6*, pp. 3–4.

61 Ms Anna Maria Arabia, Chief Executive, Australian Academy of Science, *Committee Hansard*, 21 September 2018, p. 27.

growth. In addition, Dr Marshall is a member of the Chairman's Panel. Of these ties, CSIRO stated:

When you then get to the issue of what the nature of a transaction between the foundation administering the grant and CSIRO is, there are many people inside CSIRO involved in the decision-making process on the CSIRO side, so we are not relying in any way on a conflicted person in relation to that side of the transaction. We have fairly robust processes internally to be able to handle that sort of thing automatically, especially for a high-profile situation like this, so I'm pretty comfortable that we've got it covered. The criteria that are in the answer to question 3 are generic; they're not specific precisely to this. They're not custom designed for this circumstance; they're generic ones. They reflect the way we make those decisions routinely.⁶²

4.67 On governance issues more generally, in a Senate Budget Estimates hearing, Mr Knudson from the department suggested that the Foundation's governance arrangements 'will be adjusted to account for not only the size of the money that they will be administering but also, quite frankly, the deeper relationships that will need to be created with existing entities like the [Reef 2050 Plan] independent expert panel'.⁶³ As part of this adjustment, he noted that the grant agreement for the Partnership 'provides for a Commonwealth Observer on the Foundation's Board of Directors to observe and report to the Department on the administration of the grant and the performance of the Foundation in delivering the grant'.⁶⁴

4.68 The Foundation informed the committee that its conflict of interest policy is publicly available on its website.⁶⁵ Ms Marsden also indicated to the committee that a governance and advisory framework would be published 'within six months'.⁶⁶

The Foundation's investment of Commonwealth funds

4.69 The submission made by The Australia Institute and Future Super noted connections between the banking sector and the Foundation:

62 Dr John (Jack) Steele, Director, Science Impact and Policy, CSIRO, *Committee Hansard*, 21 September 2018, p. 8.

63 Mr Dean Knudson, Deputy Secretary, Environment Protection Group, Department of the Environment and Energy, *Senate Environment and Communications Legislation Committee Hansard*, Budget estimates 2018–19, 21 May 2018, p. 35.

64 Department of the Environment and Energy, *Submission 7*, p. 10.

65 Great Barrier Reef Foundation, *Answers to questions taken on notice, public hearing, Canberra, 18 September 2018* (received 16 October 2018) p. 5.

66 For the conditions of the Grant Agreement, see chapter 2 of this report. On a public governance framework for the Foundation, see Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, 30 July 2018, p. 39.

The \$443.3 million in grant funding is currently sitting in term deposits with six banks and five of those banks have connections to the GBRF's Chairman Panel and two of them with members of the GBRF Board.⁶⁷

4.70 Mr Richie Merzian, Director of the Climate and Energy Program for The Australia Institute, argued that investments undertaken by banks contributed to climate change in the following way:

The big four are the largest funders of the fossil fuel industry in this country. Based on research by Market Forces, lending by the big four to the fossil fuel industry increased 50 per cent between 2016 and 2017. This matters because the emissions associated with those funded fossil fuel projects over their lifetime are equivalent to five times the emissions reductions that Australia will need to make in order to meet our Paris target. The foundation, by parking its money with these banks, is indirectly supporting the operations and growth of an industry that is directly contributing to the reef's greatest threat. This can change if the foundation adopts a divestment strategy regarding its banking and an investment policy to guide the use of its undispersed funds.⁶⁸

4.71 The Australia Institute and Future Super submitted that the Investment Policy that the Foundation must develop under the Agreement should exclude investment in 'the fossil fuel industries that directly contribute to climate change', as well as in companies that 'directly contribute to threats to the [Reef] including climate change'.⁶⁹ It stated:

If the Great Barrier Reef Foundation is to gain credibility in its role protecting the Great Barrier Reef it needs to align its investments with the health of the Reef. The Foundation has an opportunity to select its banking partners and its investment portfolio based on an ethical fossil free investment policy that screens out companies and projects that threaten the Reef.⁷⁰

4.72 The Australia Institute and Future Super highlighted that there is currently no stipulation that the Foundation's Investment Policy is aligned with abating climate change or addressing other causes of damage to the Reef, including poor water quality, coastal development, or over-fishing.⁷¹

67 The Australia Institute and Future Super, *Submission 18*, p. 5.

68 Mr Richie Merzian, Director of the Climate and Energy Program, The Australia Institute, *Committee Hansard*, 21 September 2018, p. 46.

69 The Australia Institute and Future Super, *Submission 18*, p. 2.

70 The Australia Institute and Future Super, *Submission 18*, p. 15.

71 The Australia Institute and Future Super, *Submission 18*, pp. 8–9. See also the Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation, p. 22.

Addressing critical underlying causes of damage to the Reef

4.73 A significant amount of evidence received by the committee noted that the Foundation's work under the Partnership would be directed into mitigation and adaptation programs. It was argued that the Commonwealth's adoption of this approach would not address the critical underlying causes of damage to the Reef, particularly climate change from fossil fuel consumption; the deforestation of Reef catchment areas; and the run off of sediment, chemicals and fertilisers, which reduce the quality of water around the Reef.

4.74 Dr Martin Rice, Acting Chief Officer and Head of Research for the Climate Council of Australia, suggested that the funding of the Foundation Partnership will be 'nothing more than a golden bandaid solution and possibly a monumental waste of money'.⁷²

4.75 The Australian Academy of Science provided a summary of the reasons why the policy would fail to address crucial underlying environmental issues:

The Academy notes with concern many of the ongoing stressors to the Great Barrier Reef World Heritage Area—such as global warming, land clearing, coastal development, port expansion, dredging, dumping of maintenance dredge spoil, commercial and recreational fishing, ship anchoring, and many other impacts of escalating shipping—all of which continue to accumulate. The proposed funding does little to address these issues.

In the aftermath of unprecedented back-to-back coral bleaching and mass mortality in the northern and central GBR, the Academy is concerned with the direction of attention away from curbing the escalation of the major stressors on the Reef in favour of small-scale restoration projects such as underwater fans, coral sunscreen and coral gardens.⁷³

Climate change

4.76 The committee considered a large amount of evidence that argued that the Commonwealth should be working to reduce climate change, which was the cause of the most significant damage to the Reef, including reducing carbon emissions, which is the greatest single cause of climate change.⁷⁴

4.77 Dr Reichelt appearing as then Chairman of GBRMPA at Budget Estimates 2018–19 commented that:

72 Dr Martin Rice, Acting Chief Officer and Head of Research for the Climate Council of Australia, *Committee Hansard*, 30 July 2018, p. 1.

73 Australian Academy of Science, *Submission 14*, p. 1.

74 For example, see: Australian Conservation Foundation, *Submission 2*, p. 2; Queensland Government, *Submission 9*, p. 3; Australian Academy of Science, *Submission 14*, p. 1; Greenpeace Australia Pacific, *Submission 17*, p. 1.

In the long run the steady rise in global ocean temperatures continues to be the single biggest risk to the health of the Great Barrier Reef. We acknowledge the national and international efforts to reduce greenhouse gas emissions to meet the goals of the Paris agreement, and I am sure this committee is extremely aware of the importance of meeting these targets if the health of tropical coral reefs is to be secured.⁷⁵

4.78 The Queensland Government submitted that the lack of focus on climate change in Commonwealth policy meant that current measures would be insufficient to protect the Reef's future. It was argued:

Climate change is the most pervasive threat to the Great Barrier Reef. Successive bleaching events in 2016 and 2017 were unprecedented in their level of impact and are clearly linked to man-made global warming. Almost half of the Reef's shallow water corals were killed as a result of these two bleaching events and the situation can only be expected to worsen as climate change continues to intensify.⁷⁶

4.79 A number of submitters spoke of the need for the Government to make more efforts to address climate change, noting that it was of the utmost importance in any efforts to preserve the Reef.⁷⁷

4.80 The Queensland Government concluded that the new Commonwealth funding 'is appreciated'. However, it warned:

...without commensurate effort by the Australian Government to reduce Australia's carbon emissions, and show strong leadership in the international arena to drive global action, the new funding will be insufficient to protect the Reef for future generations.⁷⁸

4.81 Dr Rice of the Climate Council of Australia argued that the current approach of Commonwealth investment in the Foundation Partnership would be unsuccessful, as putting 'measures on local stressors without really tackling climate change is not going to do anything'. Instead, he suggested:

...what the partnership program should really be doing is recommending much stronger federal government greenhouse gas emission reduction targets. If we don't do that, non-climate mitigation activities such as culling the crown of thorns starfish and improving water quality will be nothing more than a bandaid solution.

75 Dr Russell Reichelt, Chairman, Great Barrier Reef Marine Park Authority, *Senate Environment and Communications Legislation Committee Hansard*, Budget estimates 2018–19, 21 May 2018, p. 51.

76 Queensland Government, *Submission 9*, p. 3.

77 For example, see: Australian Conservation Foundation, *Submission 2*, p. 2; Climate Council of Australia, *Submission 3*; WWF-Australia, *Submission 5*, p. 1; Australian Coral Reef Society, *Submission 6*, p. 1; Australian Academy of Science, *Submission 14*, p. 3.

78 Queensland Government, *Submission 9*, p. 3.

...Basically the situation is caused by the burning of fossil fuels—coal, oil and gas. That is driving up global temperatures, and that is increasing the frequency and intensity of marine heatwaves. Since the 1980s we have already seen a quadrupling in the occurrence of marine heatwaves, driving up the chances of coral bleaching because the corals become stressed by temperatures that are one to 1.5 degrees above the average summer maximum. Ultimately the only way we can stop the stress on the reef is to cut the emissions at source.⁷⁹

4.82 EJA went further in its criticism of the Commonwealth Government's approach. It argued the Partnership funding should 'be revoked on the basis it does not adequately deal with climate change'. It added that any further funding decision 'must deal with mitigation of climate change and the source of carbon emissions, including from Australia's fossil fuel exports'.⁸⁰

Deforestation and effects of run-off

4.83 The committee received evidence from stakeholders that suggested the Partnership would not sufficiently tackle another significant cause of damage to the Reef, namely water degradation caused by deforestation and land clearing, which results in run-off of both sediment and fertiliser.⁸¹

4.84 For example, Mr Schneiders, The Wilderness Society, stated that addressing deforestation would not need a large amount of funding, but could be achieved by clear guidance on and enforcement of Commonwealth laws, in association with new state frameworks:

The first thing is that you would not need \$444 million to effectively address issues surrounding land clearing and tree clearing. What it would take, and what has started to happen in Queensland, is stronger state based laws being in place—and they have been put in place by the Queensland government quite recently—and the Australian government implementing their own existing laws, particularly in respect of commitments under the Environment Protection and Biodiversity Conservation Act to protect the habitat of rare, threatened and endangered species and the commitments that they've made to UNESCO that they're going to work together with the Queensland government to address the outrageous rates of clearing. It wouldn't cost \$444 million.⁸²

79 Dr Martin Rice, Acting Chief Officer and Head of Research for the Climate Council of Australia, *Committee Hansard*, 30 July 2018, p. 2.

80 Environmental Justice Australia, *Submission 11*, p. 6.

81 For example, see: Mr David Arthur, *Submission 12*, pp. 3–4; The Wilderness Society, *Submission 13*, p. 2; Australia Institute and Future Super, *Submission 18*, p. 9.

82 Mr Lyndon Schneiders, National Director, The Wilderness Society, *Committee Hansard*, 21 September 2018, p. 17.

4.85 Mr David Arthur noted that deforestation and poor land use in Queensland had resulted in a number of poor outcomes from the Reef, including high levels of fertiliser in the river discharge nourishing and encouraging crown-of-thorns starfish populations. He argued that the Foundation lacked expertise in this area:

What the GBRF Board lacks is expertise or experience with the greatest single threat to the Great Barrier Reef, namely the poor quality of water flowing to the GBR from Queensland rivers. This poor quality is a consequence of historic and ongoing poor land management practices in farming, forestry and coastal development industries in terrestrial Queensland; the absence of expertise related to Queensland land use on the Board of the GBRF is noteworthy.⁸³

4.86 On the failure of the Partnership agreement to address the effects of run-off of sediment and undissolved nitrogen from fertilisers, the Academy of Science contended:

...the objectives of the Reef 2050 Plan will fail to achieve its objectives if funding for improving water quality is not increased. Reduction in nutrients and sediment from rivers flowing into the GBR is far short of target levels. Particularly noticeable is the small reduction in dissolved inorganic nitrogen - 17% compared with a target of 50%. This nutrient is most closely linked with crown-of-thorn starfish infestations. In this regard, the new package merely represents business as usual. The Academy recommends increasing the level of funding for water quality, to be paid directly to [National Resource Management Regional Bodies (NRMs)]. While improving water quality will not prevent future bleaching events, it can improve the capacity of the Reef to recover.⁸⁴

83 Mr David Arthur, *Submission 12*, p. 3.

84 Australian Academy of Science, *Submission 14*, p. 3.

Chapter 5

Audit of the award of the grant to the Great Barrier Reef Foundation

5.1 This chapter outlines the main findings of the very detailed and comprehensive audit by the Australian National Audit Office (ANAO) of the award of the grant to the Great Barrier Reef Foundation (the Foundation), which was presented to Parliament on 16 January 2019.¹

5.2 The ANAO's report largely confirms this committee's own findings: that the process by which the Foundation was selected for, and awarded, a Partnership by the Government was seriously flawed, including in the adequacy of the work that the Department of the Environment and Energy (the department) undertook as part of this process.

Departmental advice

5.3 The ANAO stated that all decisions in awarding and paying the grant were 'informed by departmental advice'. Further, that advice 'clearly recognised that funds needed to be paid and accounted for in 2017–18'. However, the report went on to comment:

There were shortcomings in aspects of the department's advice, partly as a result of non-compliance with elements of the grants administration framework.²

5.4 The ANAO noted the following:

- the 'compressed timeframe needed to meet the objective of spending the funds in 2017–18' of only 11 business days;
- a lack of consideration of any other partner for a tied fund partnership, apart from the Queensland Government which is already a partner of the Commonwealth in the Reef 2050 Plan and the Reef Trust;
- a lack of evidence and record keeping, which means decisions were poorly documented, if at all; and
- a lack of consideration given to 'opportunities to introduce some competition into the grant giving process', even though the Commonwealth's grant framework 'seeks to encourage competitive, merit-based selection processes'.³

1 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19.

2 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 8.

5.5 The ANAO also noted that the department, while it identified some of the benefits of paying the grant in full in 2017–18, it did not estimate or bring to the Government's attention the costs of doing so.⁴ The ANAO noted:

...no consideration was given to the financial cost to the Commonwealth (in terms of additional public debt interest) of paying the full grant amount in 2017–18. This upfront payment was more likely to have resulted in greater public debt interest expense than periodic payments over six years reflecting the cash flow needs of the foundation in delivering the partnership (or to specific delivery milestones).⁵

Program guidelines

5.6 The ANAO noted that the 'development of program guidelines is an important element of the Government's administrative framework' as they 'play a central role in the conduct of effective, efficient and accountable grants administration'. The Commonwealth Grant Rules and Guidelines (CGRGs) set out the requirements for grants. When measured against the CGRGs, the Partnership programs were found to contain inadequate detail, namely:

- there was insufficient detail provided regarding the desired program outcomes, and that 'there would have been benefits in guidelines setting out clear targets for what was expected to be achieved (such as how much funding the Australian Government expected to be leveraged from the private sector using the grant funding)'; and
- 'clear assessment criteria were not included', which 'did not enable an appropriate assessment of whether a partnership proposal represented value for money'. In relation to the latter matter, the audit noted that the reasons provided to the minister that the Partnership did represent value for money 'differ in important respects from the matters the program guidelines required that the proposal address'.⁶

5.7 The ANAO made two recommendations in relation to the program guidelines:

3 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 9. For additional detail on these points see pp. 10 and 22–25 for the standard of advice provided, pp. 28–30 for reasons documented for allocating funding other than through a competitive merits-based selection process, and pp. 31–32 for the adequacy of advice on costs and benefits of making the full grant payment in 2017–18.

4 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 31.

5 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 31–32.

6 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 9.

-
- that the department include performance targets in program guidelines for Reef Trust grants to assist it to decide whether funding proposals represent value for money having regard to the quantum of funding that is being sought; and
 - that the department include clear assessment criteria in program guidelines for any grant proposals that are being considered through non-competitive processes.⁷

5.8 These recommendations were noted by the department.

Approval of grant funding

5.9 The ANAO found that the department had provided detailed and clear written advice to the minister as required by the content requirements of the CGRGs. However, while the minister was advised that the Foundation's proposal fully met the criteria in the program guidelines, the guidelines did not contain clear assessment criteria. Instead, the ANAO stated, the department cited six reasons as to why it supported the Foundation's proposal as representing value with money and a proper use of Commonwealth resources, but 'not all the reasons cited by the department can be adequately traced back to the program guidelines'.⁸

Evaluation of the Foundation's proposal by the department

5.10 In relation to evaluation of the proposal, the ANAO noted that the department had assisted the Foundation to develop its funding proposal, at the same time that the program guidelines were being developed and the evaluation of the proposal was taking place. While a risk management strategy was adopted, the ANAO found that the department may not have sufficiently addressed potential conflict of interest issues in its assessment of the grant. Even if it ensured that the 'senior level review of evaluation' of the Foundation's proposal was not conducted by officers who had assisted in its development, it was perceived that the department failed to address the risk that its work assisting the funding proposal 'presented to an objective evaluation of that proposal, and conflict of interest risks were not adequately addressed'.⁹

5.11 The ANAO recommended that the department develop a probity framework to manage the risks when it assists potential grant recipients to develop their funding

7 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 37 and 43.

8 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 9 and 44.

9 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 9 and 11.

proposals and applications in the future. The department agreed to this recommendation.¹⁰

5.12 The ANAO also noted deficiencies in the proposal evaluation in the following three key areas examined by the ANAO, namely the:

- 'capacity and capability of the foundation's delivery partners to scale-up their activities';
- 'foundation's past fundraising performance'; and
- 'total administration costs of the partnership model' as the department focussed only on the Foundation's costs, 'with no evaluation attention given to the administration costs of the foundation's delivery partners'.¹¹

Foundation's ability to scale-up

5.13 The ANAO found that the department applied adequate scrutiny to matters related to the Foundation's ability to scale-up its governance structures and resourcing level. It was noted that the department had identified that there was a low risk in relation to the Foundation's ability to scale-up 'on the basis that the grant agreement would set out clear early milestones relating to scaling up activities and plans'.¹² However, the audit report commented, in relation to the likely effectiveness of the Grant Agreement requirements, that the department:

- does not have any approval rights over the plans and strategies the foundation is required to prepare. Rather, the foundation is required under the grant agreement to give the department drafts of each of the plans and strategies and take into account any comments of the department in finalising the plans and strategies; and
- is not able to withhold the payment of any grant funding in the event it is not satisfied with the content of the plans and strategies. Legal advice to the department was that the up-front payment of all of the grant funding carried with it a higher risk that the grant would not achieve its intended outcomes than a grant made available progressively on the achievement of specified milestones.¹³

5.14 The ANAO found that there was insufficient scrutiny applied in the evaluation of the proposal as to whether the Foundation's delivery partners, including subcontractors, will be able to scale up their capacity and capability. The department

10 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 53.

11 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 9.

12 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 54.

13 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 54–55.

has advised the ANAO that the risks associated with subcontractors will be managed through the Grant Agreement and across the grant lifecycle by the Foundation.¹⁴

5.15 The Auditor-General recommended:

The Department of the Environment and Energy obtain assurance over the achievement of value for money in the foundation's use of delivery partners by requesting the foundation benchmark prices being offered against rates charged prior to the announcement of the \$443.3 million in grant funding. This benchmarking will be particularly important in circumstances where open competition has not been employed by the foundation when selecting delivery partners.¹⁵

5.16 The department agreed to this recommendation.

Past fundraising performance and future plans

5.17 The ANAO concluded that the department's assessment applied inadequate scrutiny to the Foundation's past performance and future plans to attract private and philanthropic investment. One matter highlighted was that the department's written assessment 'repeated statements made by the foundation in its proposal'.¹⁶

5.18 In addition, deficiencies were identified in the department's analysis of the Foundation's performance in attracting co-investment. It was observed that the Foundation's financial statements were not considered next to claims it made in the proposal and, while 10 years of financial statements were publicly available, the department only obtained the two most recent sets of financial statements. The ANAO described this as an 'inadequate' approach.¹⁷

5.19 In relation to future plans, the ANAO noted:

The decision to approach the foundation about entering into a partnership was informed by advice that a large, upfront grant would strengthen the foundation's capacity to leverage philanthropic and business funding.¹⁸

5.20 The audit report noted that the program guidelines stated that the Foundation's proposal should demonstrate how it planned to attract private and philanthropic co-

14 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 53.

15 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 56.

16 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 56.

17 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 58.

18 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 60.

investment to enhance delivery of the partnership. While the Foundation's proposal included three paragraphs directly related to this requirement, the audit report stated that the proposal did not demonstrate how the Foundation planned to attract co-investment.¹⁹

5.21 The ANAO concluded that 'insufficient information was obtained and analysed to assess past performance and future plans'.²⁰

Setting targets

5.22 The ANAO commented that the Grant Agreement does not include specific co-investment targets. Instead, the Foundation is required to develop a co-financing strategy which, in combination with annual work plans, 'is expected to set out how the foundation will use the grant to raise contributions from other sectors'. While the Foundation is required to consult on those plans, the department does not have approval rights over the plans.²¹

5.23 It was noted that the Collaborative Investment Strategy, provided to the department in September 2018, includes targets totalling \$300 million to \$400 million over the next six years. The feasibility of these targets has not yet been assessed, so may require adjustment. Adjustment of the targets may occur, once the Foundation has undertaken feasibility testing.²²

Administration costs

5.24 Regarding administration costs, the ANAO commented that the Foundation's proposal did not address the administration costs of its subcontractors. Similarly, the department's evaluation, including material provided to the minister, did not address subcontractor administration costs.²³ The ANAO found:

The department applied insufficient scrutiny to the likely administration costs of the partnership. In particular, the assessment work and resulting advice to the Minister focused on the foundation's administration costs (capped in the grant agreement at \$44.33 million), notwithstanding that it

19 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 60.

20 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 11.

21 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 56.

22 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 56.

23 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 65–66.

was evident that the foundation would be relying heavily on subcontractors for program delivery.²⁴

5.25 The department agreed to the ANAO's recommendation that it develop strategies to allow it to be assured about the rigor of the Foundation's subcontracting processes.²⁵

Entity response and implications for the department

5.26 As part of the audit of the award of the Partnership grant to the Foundation, the department was given the opportunity to respond. The department's response is available in the audit report.²⁶

5.27 Mr Finn Pratt AO PSM, Secretary of the department, welcomed the findings that the department had provided detailed and clear advice to the minister and that the Partnership was informed by comprehensive policy development work spanning several years. He noted that the department agreed with the report's findings that relate to process improvements. However, Mr Pratt went on to state:

Findings in the report relating to the Department's scrutiny of the proposal and value-for-money assessment, the use of assessment criteria, and the level of detail on outcomes and performance targets are incorrect or based on an incomplete assessment of the evidence.²⁷

5.28 Mr Pratt provided further comment on these three matters including that 'Given the available timeframes, and consistent with Cabinet's decisions, the approach taken to establish the partnership was sensible and thorough'. Additionally, it was stated that the Partnership represented value for money for public resources, that the guidelines did include assessment criteria (while conceding these could have been more clearly labelled), and that Program outcomes 'were appropriately specified in the grant guidelines, in line with the outcomes of the Reef 2050 Plan'. The Foundation is required to more detailed performance measures along with appropriate reporting and evaluation process to ensure performance targets are 'further detailed, refined and reported against' over the Partnership.²⁸

24 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 11 and 48.

25 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 67.

26 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 70–71.

27 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 13.

28 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 13.

5.29 The committee notes that the Auditor-General's report responded to the concerns raised by Mr Pratt.²⁹

5.30 The Foundation was also given the opportunity to respond to the proposed audit report. The Foundation addressed the following issues:

- progress against the Reef Trust Partnership Agreement;
- scaling-up activities;
- water quality;
- administrative costs;
- subcontractors; and
- fundraising.³⁰

29 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 13–14.

30 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 73–76.

Chapter 6

Committee view and recommendations

6.1 This inquiry considered the \$444 million grant by the Commonwealth to a small, private charity, the Great Barrier Reef Foundation.

6.2 It is clear that the Great Barrier Reef is in grave danger from a number of environmental stressors, and that climate change is the greatest of these stressors. It is also clear that the Commonwealth needs to intensify its efforts and provide greater funding to protect and preserve the Reef for future generations.

6.3 Nevertheless, this inquiry uncovered significant shortcomings with the intent, design and proposed implementation of the Foundation Partnership Agreement.

6.4 The granting of \$444 million to the Foundation was a highly irresponsible decision, hastily concocted by relevant ministers, without proper consideration of risks and potential effectiveness, no consultation with key stakeholders, and without having undertaken due diligence.

6.5 This 'off-the-cuff' decision has caused massive disruption to existing policy and program delivery, including by existing government agencies. It has all the hallmarks of a government that is not properly managing its responsibility as the guardian of the World Heritage listed Great Barrier Reef.

6.6 Some stakeholders spoke positively of the Foundation's track record in building relationships with the corporate sector to fundraise for the Reef, the connections it has built with stakeholders, and its ability to manage small Commonwealth grants and private funds.

6.7 However, many questioned whether the Foundation was the right organisation to manage such a significant investment. Concerns were raised about the Foundation's ability to handle such a rapid increase in size and responsibilities, the high cost of administration, and the duplication and governance complexities the Partnership introduces.

6.8 The committee also heard repeatedly that the \$444 million would have been better allotted to the Commonwealth's established bodies, rather than a new mechanism that filters public funds through an untested private organisation, in some cases back to government bodies.

6.9 Lastly, the committee heard concerns that the focus of the Foundation Partnership would not be on the underlying environmental problems—such as climate change—that are the root cause of the poor health of the Reef.

Termination of the Foundation Partnership

6.10 In light of the evidence gathered during this inquiry, the committee believes that the most appropriate action for the Commonwealth to take is to terminate the Foundation Partnership. The committee believes this is necessary to help restore trust in the process of Commonwealth funding for the Reef, if not the entire Commonwealth grants process. The committee also considers that this is necessary to ensure that Commonwealth funding is spent in the best possible way to help protect and preserve the world's largest coral reef system.

6.11 The committee understands that the grant can be terminated or reduced in scope, pursuant to clause 25 of the Agreement with the Foundation, which states:

If there is a material change in Australian Government policy that is inconsistent with the continued operation of this Agreement, the Department may by notice terminate this Agreement or reduce the scope of the Agreement immediately.¹

Recommendation 1

6.12 The committee recommends that all unspent Foundation Partnership funds be returned to the Commonwealth immediately; and that these funds be earmarked for expenditure on projects to protect and preserve the Reef, to be expended by 30 June 2024.

Restructuring the Commonwealth grants process

6.13 The committee also believes that in light of the process uncovered during this inquiry—or lack thereof—there is an urgent need to review Reef-related Commonwealth funding.

6.14 Similarly, this review is needed to help restore public confidence and to ensure that the attribution of public funding for one of the 'seven natural wonders of the world' is transparent and accountable; and is done in a way that promotes collaboration between the Commonwealth and Queensland Governments and agencies, universities and scientists, community groups, and users of the Reef.

6.15 This review should include an examination of the governance, legal and administrative provisions relating of the Reef Trust and GBRMPA, as well as the role of organisations that undertake research and program delivery, such as AIMS and CSIRO.

1 Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation, p. 43.

Recommendation 2

6.16 The committee recommends the Commonwealth Government undertake a review, to be completed by 1 July 2019, of the structure of Commonwealth funding to protect and preserve the Great Barrier Reef. The committee further recommends that the expenditure of unspent Foundation Partnership funds be guided by the outcome of this review.

A hastily and poorly designed approach

6.17 This report outlines the timeline by which this measure was developed following the rejection of two new policy proposals on 6 March 2018 by the Expenditure Review Committee (ERC) of the Cabinet in the 2018–19 Budget process. As the former Prime Minister, the Hon Malcolm Turnbull, informed the committee, at this ERC meeting it was decided that:

...an alternative proposal be brought forward to create a tied reef fund, with a partner outside the general government sector, to be funded in 2017/18 for activities to be agreed with the Commonwealth, with appropriate governance arrangements.²

6.18 On 9 April 2018, little over a month after the ERC decision to find a partner outside of government, Mr Turnbull and the then Minister for the Environment and Energy, the Hon Josh Frydenberg MP, approached the Foundation at a meeting at which they were not accompanied by departmental representatives.

6.19 At this meeting, Mr Turnbull and Mr Frydenberg put an unprecedented offer of \$444 million on the table, a sum that is almost twice the size of any other Government grant in 2018, to an organisation that did not seek or expect such a massive grant. The Foundation's Managing Director later likened it to 'winning the lottery'.³

6.20 Indeed, until that point, the Foundation was only aware it was being considered for a much smaller \$5 million investment under the Phase VI of the Reef Trust Investment Strategy.

6.21 Little more than two weeks following this meeting, the Foundation Partnership was confirmed and announced. This public commitment was made on the basis of development of a brief two-page outline of 'Collaboration Principles' between the Commonwealth and the Foundation.

2 The Hon Malcolm Turnbull, *Answers to written questions taken on notice* (received 1 October 2018), p. 1.

3 Peter Hannam, 'Like winning lotto': Reef Foundation minnow braces for \$444m windfall', *Sydney Morning Herald*, 13 May 2018, www.smh.com.au/environment/conservation/like-winning-lotto-reef-foundation-minnow-braces-for-444m-windfall-20180511-p4zeud.html (accessed 13 November 2018).

6.22 Indeed, the committee has been unable to gather conclusive information to determine where the proposal for the measure originated. It is certainly not an idea that originated with the Foundation, which was not aware of it until approached on 9 April 2018. Beyond this, it is not possible to say with any certainty whether the initial impetus came from Minister Frydenberg or Prime Minister Turnbull, both of whom led the approach to the Foundation, from another member of the Cabinet, from advice to Government provided by the Department of the Environment and Energy or, indeed somewhere else.

6.23 The committee considers that this is no way to approach the development of policy, program delivery and funding in a complex sector. It is also no way to approach funding of projects which will have such profound impacts on the Reef, a natural wonder of such importance for Australia's environment, economy, national heritage and international reputation.

Lack of consultation

6.24 The committee notes the remarkable lack of consultation that characterised the development of the Foundation Partnership proposal.

6.25 Given the Queensland Government's partnership with the Commonwealth in the Reef 2050 Plan, which is central to the management and research into the Reef, it is disappointing and disrespectful that it had no knowledge of this policy until it was announced on 29 April 2018.

6.26 The committee also notes the lack of references to the development of the policy in documents obtained from Commonwealth departments. This, again, confirms the lack of involvement of departments and agencies in developing the proposal, their lack of involvement in the approach made to the Foundation and, in some cases, the lack of knowledge they had of the Foundation Partnership before the measure was announced.

6.27 This is not only disappointing, but also disrespectful, and has created budgetary and workplan uncertainties for those agencies that are yet to be resolved.

6.28 Furthermore, the Foundation has admitted that it had no knowledge of the Partnership before it was offered \$444 million of public funds during the meeting between Mr Turnbull, Mr Frydenberg and Dr John Schubert, the chair of the Foundation.

6.29 This lack of consultation in itself raises serious and concerning questions about the merit of the Foundation Partnership. It also demonstrates a disregard by the Government for its own publicly-funded experts, the Foundation itself as recipients of funding, and a lack of care for the public purse.

Lack of due diligence

6.30 The available evidence has failed to assure the committee that the Commonwealth undertook appropriate due diligence for the awarding of such a large amount of public funds. The department has told the committee that due diligence had been undertaken on the Foundation before the \$444 million offer was made. This due diligence was undertaken without the knowledge of the Foundation itself.

6.31 It is clear to the committee that due diligence and risk assessment was undertaken by the department on the Foundation regarding the \$5 million grant for the Reef Trust Phase VI Investment, which the minister approved on 6 April 2018.

6.32 However, the committee finds it greatly concerning that, over the course of this inquiry, there has been little evidence provided for more thorough and substantial process of due diligence *before* this extraordinarily large grant was announced, as might have been expected.

6.33 Government departments have all claimed that they are unable to provide more information on the due diligence process that preceded the grant offer, citing the principle of advice provided to Government as part of the Budget process being cabinet-in-confidence. Documents have been provided to the committee that confirm evidence for due diligence processes for the \$444 million Partnership specifically being undertaken *after* the measure was offered, agreed, and announced by the Government. This included outlining the nature of the accounts and financial arrangements of the Foundation, governance arrangements, and potential risks for the Partnership policy, and the transformation of the Foundation that it will necessitate.

6.34 In this regard, the committee notes the lack of formal minutes being taken for the five Interdepartmental Committee (IDC) meetings held between April and July 2018 'to provide advice on the assessment and approval of the grant to the Foundation'.⁴ Given the importance of the decision to fund the Foundation Partnership and the funding quantum under discussion, as well as the range of departments present and the number of meetings held, it is most surprising that none of these meetings were formally minuted.

6.35 Given the lack of evidence, the committee can only state that it is not confident that the due diligence process prior to the award of the grant occurred with probity and integrity.

4 Department of the Environment and Energy, *Submission 7*, Supplementary Submission Attachment B (Information statement regarding the assessment and awarding of the Reef Trust Grant to the Great Barrier Reef Foundation), p. 6.

The use of a grant paid as a single payment in the 2017–18 financial year

6.36 The committee has been concerned about the decision to pay the Partnership Grant as a single, upfront payment of \$444 million, only a few days before the end of the 2017–18 financial year. The committee's concern is compounded by the apparent scant evidence for consultation within Government and the sector more broadly.

6.37 The delivery of this unprecedented sum to a private organisation ensured that the Foundation Partnership measure would also bypass appropriate scrutiny as part of the 2018–19 Budget process, and that it will not be subject to rigorous Commonwealth and Parliamentary scrutiny over the forward estimates.

6.38 The committee is also aware that paying the full grant sum as a single upfront payment runs the risk that there will be inadequate oversight of the monitoring of key performance indicators of the Agreement, including the capacity of the Foundation to leverage private and philanthropic sources of funding, to supplement the Commonwealth funding it has already received.

6.39 The delivery of funding under this upfront model introduces a number of risks in accountability and transparency in the Foundation's work under the Agreement. The committee considers that it introduces questions of how the Commonwealth can motivate performance for the Partnership and its activities, when the funds have already been delivered. It could also make it more difficult to renegotiate the terms of the Partnership in cases of underperformance or mismanagement. There are also unresolved questions about the Commonwealth's ability to reclaim and reapportion funds to more rigorously designed Reef-related policy options in cases where the Foundation does not satisfy the agreement, or under other conditions outlined in the Agreement itself.

6.40 The information provided by the former Prime Minister, the Hon Mr Malcolm Turnbull, confirms that the Hon Scott Morrison MP, then-Treasurer and now Prime Minister, and Senator the Hon Matthias Cormann, the Minister for Finance, preferred the approach of a single payment as it would improve the capacity of future Commonwealth Budgets, and because the outlook for 2017–18 'looked promisingly strong'.

6.41 In his email to the committee, Mr Turnbull stated that the decision made at the ERC meeting on 6 March 2018 rejected two proposals for Reef funding, one 'partially offset and over 6 years, the other smaller and fully offset over two years'. These were rejected in favour of a 'tied reef fund, with a partner outside the general government sector, to be funded in 2017/18'. On this, Mr Turnbull stated:

The arrangement allowed the Government to book the grant expenditure in one year, 2017/18, notwithstanding that the investment of the funds in the

various reef projects by the GBRF would take place over a period of six years.⁵

6.42 Although the justification given was that the Foundation Partnership would drive private co-investment, it could equally be argued that the decision was made for more cynical reasons. That is, the Partnership was designed not to meet a genuine and well-founded policy rationale, but to make the 2018–19 Commonwealth Budget look stronger by loading payment into the 2017–18 financial year.

6.43 In doing so, this measure has pumped public money into a private Reef-related organisation as a single payment, where it will not be subject to due oversight by the Commonwealth and the Parliament, including through the Senate Estimates process scrutinising 2018–19 Budget measures.

6.44 The hasty reverse-engineering of this policy to meet short-term Budget optics, required it to be delivered by grant, rather than a lengthier and rigorous open tender process. Many stakeholders provided evidence which indicated a preference for an open tender process. As the Queensland Government submitted to the committee, it is:

...concerned at the unprecedented approach of providing such a level of funding to a single private organisation without going to the open market to ensure a transparent and accountable procurement process.⁶

6.45 The committee also notes the convincing arguments from stakeholders that an open tender process would have been a more appropriate mechanism, given that the Foundation Partnership will be expanding its capacity to deliver and fulfil Government objectives. For example, Environmental Justice Australia stated:

With a grant, the recipient receives financial assistance from the Commonwealth to help achieve its own goals (consistent with Commonwealth goals), whereas in a procurement, the Commonwealth is usually purchasing goods and/or services that assist the Commonwealth in achieving its own goals.⁷

6.46 The committee acknowledges that the department has argued that the Commonwealth took this approach fully meeting the conditions of the Commonwealth Grant Rules and Guidelines and procurement frameworks. However, this committee considers that the evidence for this is less than convincing, and there is the potential for this decision to have been an abrogation of the requirement on the Commonwealth Government that it must ensure that the spending of public money is subject to due diligence, transparency and appropriate scrutiny.

5 The Hon Malcolm Turnbull, *Answers to written questions taken on notice* (received 1 October 2018), p. 1.

6 Queensland Government, *Submission 9*, p. 1.

7 Environmental Justice Australia, *Submission 11*, p. 2.

Capacity of the Foundation and Commonwealth assessment of risk

6.47 The committee understands the Foundation has a good reputation in the Reef sector as an organisation that has administered small programs of research and delivery to assist the health of the Reef, effectively liaised between the private, public and research sectors, and has a good track record of leveraging and disbursing philanthropic and public funding.

6.48 However, despite its good reputation and track record, it is clear to the committee that its existing capacity and experience in no way merited the unprecedented awarding of a Commonwealth investment of \$444 million.

6.49 The committee considers that it is not the Government's role to turn serious funding matters for crucial policy areas into a lottery system, whereby funds are provided to recipients who are unprepared to receive them.

6.50 This is particularly the case where hasty policy development is accompanied by a lack of due diligence and an appropriate weighing of risk in making funding decisions.

Risks of the Foundation Partnership

6.51 The significant risks of the Foundation Partnership were outlined in the Collaboration Principles developed between the department and Foundation, after the funding had already been decided by Government and offered to the Foundation by Mr Turnbull and Mr Frydenberg, as well as the departmental Proposal Evaluation available to the committee.

6.52 The committee considers that any of these concerns should have been grounds for at least delaying the granting of funding. With a delay, appropriate due diligence and consultation could have been undertaken by the Government.

6.53 In the Collaboration Principles, there was an acknowledgement that the 'rapid increase in operational scale...poses significant capacity, governance and capability challenges'. This could, the Principles note, 'delay delivery of on-ground projects, leading to loss of local capacity and momentum', as well as necessitating the Foundation's development of new skills in overseeing occupational health and safety risks of delivery projects.⁸

6.54 The Proposal Evaluation undertaken by the department noted other concerns, including the Foundation's serious lack of experience and skills 'relevant to four out of the five partnership outcomes' including water quality improvement, crown-of-thorns

8 Department of the Environment and Energy, FOI 180514, Document 17b, Attachment 1, p. 1.

starfish control, Indigenous and Community Reef Protection Actions and Integrated Monitoring and Reporting.⁹

6.55 Such serious concerns involving such a significant investment using an untested proposal should have given the Commonwealth pause for thought, even if these concerns had only come to light after funding had already been offered to the Foundation.

Fundraising targets set by the Foundation

6.56 The committee notes that the Collaborative Investment Strategy released by the Foundation on 24 December 2018 sets targets for the expected level of fundraising over the course of the Partnership.

6.57 The strategy states that the \$444 million of Commonwealth funding will be supplemented by the Foundation attracting \$300 to 400 million of funding from corporate philanthropy and individual giving, as well as through formal agreements with delivery partners.¹⁰

6.58 The committee considers these targets are very ambitious, and would require the Foundation to significantly lift its previous fundraising levels, which it states have attracted \$90 million over 18 years prior to the commencement of the Partnership.

6.59 The committee also notes that the fundraising quantum set out in the strategy is aspirational, rather than a condition of the Agreement. In this regard, the Commonwealth has few mechanisms that could ensure the Foundation is able to achieve its fundraising targets.

Governance of the Foundation and additional complexity in the Reef sector

6.60 The Foundation Partnership also raises a number of governance issues that should have been considered more deeply by the Government before its adoption and announcement.

6.61 The Proposal Evaluation noted only one potential governance issue: Dr Russell Reichelt's role at the Great Barrier Reef Marine Park Authority (GBRMPA) and his directorship of the Foundation, given GBRMPA may be eligible for funding disbursed by the Foundation.

6.62 The committee notes the more complex governance issues that should be resolved regarding members of the Foundation Board, the Chairman's Panel, and the broader Reef sector noted in an earlier chapter of this report.

9 Documents Produced pursuant to the Senate Order agreed on 21 August 2018 (notice of motion no. 978), Attachment A3 (Proposal Evaluation), pp. 1, 3, 5, 7, 11 and 19–20.

10 Great Barrier Reef Foundation, *Collaborative Investment Strategy*, p. 7.

6.63 The Foundation's Board has clear and publicly acknowledged ties to sectors that profit from fossil fuels and other industries that contribute to Reef damage, both directly and indirectly. Additionally, there are still unresolved questions about the role and influence on the Chairman's Panel on the Foundation, its culture, management and decision making.

6.64 The committee is also concerned that the Foundation Partnership has created uncertainty in the governance in the sector more broadly. It notes particularly that the Foundation has duplicated some functions of other Reef organisations, including GBRMPA as manager of the Reef.

6.65 In considering both the governance of the Foundation and the implications for the sector more broadly, the committee also notes that the processes that the Foundation will adopt to seek, assess and select potential projects have not yet been fully determined and released publicly, including how the Foundation builds relationships with the Reef 2050 Expert Panel and the funding delivered through the Reef Trust.

Duplication of costs and value for money

6.66 The committee understands that the Foundation Partnership allows for the expending of up to \$22.5 million of the initial grant payment on administration costs, as well as the use of interest over the six years of the Partnership up to an additional \$22 million.

6.67 The committee has several concerns with this expenditure. First, it shares the concerns of stakeholders that the real costs of administration may be greater, particularly given the clear challenge that the Foundation has in upscaling its workforce, activities and expertise. It notes that it has already, along with drawing on the experience of Commonwealth agencies and departments, moved to engage external consultants to assist it transition to its increased budget and responsibilities.

6.68 Secondly, the committee is aware that the Foundation may deliver substantial funding for research and delivery programs undertaken by public bodies, such as GBRMPA, CSIRO and AIMS. This will add an unnecessary layer of duplication that will increase administrative expenditure of Commonwealth funds without sufficient oversight and accountability. In addition, it will have the effect of introducing some uncertainty to the work program of these agencies, and potentially make them subject to decisions made by a private organisation disbursing public funds.

6.69 The committee considers that the very first project to be funded under the Partnership Agreement justifies concerns that the use of the Foundation will add unnecessary administration and costs to the Reef sector.

6.70 This project will see \$574 000 of Commonwealth Reef Trust funding delivered to AIMS, a Commonwealth agency via the Foundation. This will fund an activity that Dr Paul Hardisty, the CEO of AIMS, has suggested is part of the agency's

ongoing 'commitment to survey the current health of the Great Barrier Reef, as it has done every two years for the past 35 years'.¹¹

6.71 This would appear to be Commonwealth funding for core AIMS business, funnelled through the Foundation as a clearinghouse, adding administrative costs, and potentially making governance, oversight and accountability more complex.

Meeting Australia's World Heritage commitments

6.72 It was asserted by some stakeholders that the Government chose to make such this unprecedented grant to the Foundation as a one-off payment to ensure that Australia's commitments to the World Heritage Committee are met.

6.73 This assertion is supported by the Auditor-General's Performance Audit which, almost in passing, states that in June 2017 the Government was advised by the department of the:

...need to 'escalate the response to the declining health of the reef' to avoid an 'in-danger' listing by the World Heritage.¹²

6.74 The department pushed back on this assertion, stating that funding estimates provided to the committee did not take into account other Commonwealth programs.

6.75 The Government had previously committed to expend \$716 million on Reef-related investment between 2015 and 2020 in the Reef 2050 Investment Framework.

6.76 However, given that the Foundation Partnership measure has introduced great uncertainty in Commonwealth investment in the Reef, the committee recommends that the Government work with the Queensland Government to publish an updated Reef 2050 Plan Investment Framework, to give some clarity on the matter.

Recommendation 3

6.77 The committee recommends that the Commonwealth and Queensland Governments publish an updated Reef 2050 Plan Investment Framework that provides current figures on established funding by source and priority area.

Investment of Commonwealth funds

6.78 The Grant Agreement sets out the conditions of the Foundation's investment of Commonwealth funds. It includes provision that the Foundation may invest:

11 Great Barrier Reef Foundation, 'First Reef Trust Partnership funded project underway' *Media Release*, 21 January 2019, www.barrierreef.org/latest/news/first-reef-trust-partnership-funded-project-underway (accessed 23 January 2019).

12 Australian National Audit Office, 'Award of a \$443.3 Million Grant to the Great Barrier Reef Foundation', Auditor-General Report No. 22 2018–19, p. 19.

...as permitted under a written investment policy of the Foundation in relation to the grant, which is consistent with sound commercial practice and in respect of which the Foundation has consulted the Department prior to the finalisation of the policy.¹³

6.79 While the Foundation must consult with the department in relation to the investment policy, there is no stipulation in the Grant Agreement that ensures the Commonwealth's grant is not invested in industries that continue to negatively affect the Reef. In particular, the committee notes the contribution of the use of fossil fuels to climate change, which is a major stressor of the Reef.

6.80 The unprecedented Commonwealth funding awarded to the Foundation has the preservation of the Reef for future generations at its heart. The committee considers that any investment of grant funds in industries that contribute to climate change is contrary to the aims of the grant and therefore should be precluded.

Recommendation 4

6.81 Should a Government decide to maintain the Foundation Agreement, the committee recommends that all necessary steps be undertaken to ensure that the Foundation's investment of public funds precludes investment in sectors or funds that directly or indirectly contribute to climate change, particularly companies that generate energy from or undertake mining of fossil fuels.

Parliamentary oversight of the Agreement

6.82 The committee understands that to meet its obligations under the Agreement, the Foundation must meet a number of reporting requirements.

6.83 The committee is aware that, had the \$444 million been awarded to a public agency, it would also be able to be appropriately scrutinised by the Parliament, including through the Senate and its estimates process.

6.84 The committee considers that the Parliament should be given the opportunity to maintain oversight of such a significant grant of Commonwealth funds. In order to ensure this occurs, the committee believes that information about the Foundation Partnership should be tabled in the Parliament. This information should be comprehensive and up to date.

13 Grant Agreement between the Reef Trust and the Great Barrier Reef Foundation, p. 22.

Recommendation 5

6.85 Should a Government decide to maintain the Foundation Agreement, the committee recommends that the Senate order:

That—

- (1) There be laid on the table by the Minister representing the Minister for the Environment and Energy, by no later than 31 October each year:**
 - (a) an annual performance statement for the previous financial year that provides information about the Great Barrier Reef Foundation's performance in achieving the purposes of the Great Barrier Reef 2050 Partnership Program; and**
 - (b) independent and audited financial statements for the previous financial year for all receipts and payments relating to the Great Barrier Reef 2050 Partnership Program funds, including any co-financed contributions.**
- (2) If the Senate is not sitting when a statement is ready for presentation, the statement is to be presented to the President under standing order 166.**
- (3) This order has effect until the end of the last financial year in which the Agreement is operative, following the cessation of the Partnership.**

Auditor-General review of the Foundation Partnership Agreement

6.86 During the course of this committee inquiry, the Auditor-General has completed a performance audit into the Award of a Grant to the Great Barrier Reef Foundation.¹⁴ As set out in the previous chapter, this audit found serious flaws with departmental advice on the selection of the Foundation, as well as shortcomings with the processes used for the evaluation and award of the grant to the Foundation.

Entity response and implications for the department

6.87 As part of the Auditor-General's inquiry into the awarding of the Partnership Grant to the Foundation, the department was given a chance to respond to the findings of the audit.

6.88 In its response, the department suggested that: 'Given the available timeframes, and consistent with Cabinet's decisions, the approach taken to establish the partnership was sensible and thorough'.¹⁵

14 Correspondence from Mr Grant Hehir, Auditor-General, Australian National Audit Office, received 24 August 2018

15 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 13.

6.89 Additionally, the department claimed that the Partnership represented value for money for public resources, that the guidelines did include assessment criteria (while conceding these could have been labelled better), and that Program outcomes 'were appropriately specified in the grant guidelines, in line with the outcomes of the Reef 2050 Plan', along with appropriate reporting and evaluation process to ensure performance targets are 'further detailed, refined and reported against' over the Partnership.¹⁶

6.90 The committee has noted this response, which does not reassure the committee that the department had enough time to develop the Foundation Partnership policy or program effectively and with integrity.

6.91 The committee supports the Auditor-General's findings that there were serious shortcomings in the awarding of funding to the Foundation, which are consistent with the committee's own views, and endorses the recommendations for the department contained in the ANAO report.

6.92 In this regard, the committee notes that the Auditor-General was able to consult the department and the Foundation over the course of its audit, and in doing so obtained evidence to guide its report and recommendations to the Parliament.

6.93 The rigour and transparency of this process suggests that the Auditor-General's findings are supported by reliable and compelling evidence, which should have guided the departmental response to the ANAO's recommendations.

Implications for other Commonwealth agencies

6.94 Additionally, the committee sees merit in the ANAO setting out the key messages from the audit for all Commonwealth Government entities. These go to the heart of the need to: strengthening governance and risk management in developing funding proposals; more effective design of policy and programs when responding to ministers seeking innovative approaches; administering the Commonwealth's grant process effectively; and keeping good records on decisions when departing from departmental policies and proven practices.

Further ANAO audit of the Foundation Partnership

6.95 The Auditor-General has informed the committee that the ANAO will consider undertaking a second audit of the Partnership later in 2019–20, once key aspects of the design of the Partnership have been finalised.¹⁷

16 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 13.

17 Correspondence from Mr Grant Hehir, Auditor-General, Australian National Audit Office, dated 24 August 2018

6.96 The committee considers that it is important for the ANAO to undertake this second audit, to assure the Australian public that public funds are being used with integrity.

6.97 Given the Auditor-General's findings in the report into the award of the Partnership Grant and that a second audit is yet to be agreed, the committee states its intention to maintain a continuing interest in the Foundation Partnership and the performance of the Foundation in delivering its outcomes beyond the scope of this inquiry, including through the estimates process.

Recommendation 6

6.98 Should a Government decide to maintain the Foundation Agreement, the committee recommends that the Auditor-General undertake a second audit of the Partnership in late 2019–20 once the design aspects of the Partnership have been finalised.

Addressing climate change

6.99 This inquiry has received very compelling evidence of the need for the Commonwealth Government to take immediate steps to address climate change. The evidence broadly noted that the \$444 Foundation Partnership does not address the cause of climate change directly. While this evidence has concentrated on the imminent disastrous outcomes for the Reef, environmentally, economically and for local and national communities, this is a broader issue of national importance that must be addressed.

6.100 The committee is aware that the Foundation accepts that climate change is an underlying cause of ongoing Reef stressors, and that climate change abatement is important for the Reef's long term survival and health. However, the committee notes that the Partnership Agreement does not begin to address climate change, as it is focussed on reducing stressors, such as improving water quality and combatting crown-of-thorns starfish outbreaks, to enable recovery and build resilience of the Reef.¹⁸

6.101 Once again, the committee was reminded of the importance of this task over the course of this inquiry, by the 8 October 2018 release of the Intergovernmental Panel on Climate Change (IPCC) *Special Report on Global Warming of 1.5°C* on 8 October 2018. This report found that human activities have caused around 1.0°C of global warming above pre-industrial levels, that this had already caused significant damage, and that without a large effort, this trajectory would continue with a number

18 Great Barrier Reef Foundation, 'Reef Trust Partnership Frequently Asked Questions', www.barrierreef.org/science-with-impact/reef-partnership (accessed 16 November 2018).

of effects, including 'risks to health, livelihoods, food security, water supply, human security, and economic growth'.¹⁹

6.102 The Climate Change Council's summary of the IPCC report emphasises that Australia will be particularly vulnerable to continuing increases in temperature. Regarding the impact on reefs of a further 0.5°C rise, the summary states that:

Coral reefs could lose a further 70-90% of cover, eliminating the Great Barrier Reef as we know it.

Increased ocean acidity in a 1.5°C world will affect the survival and abundance of a broad range of marine species, from algae to fish.²⁰

6.103 Given this outlook, it is clear that the Partnership will only address the symptoms devastating the Reef, at best. In doing so, it is another indication that the Government does not accept the clear scientific consensus on the looming environmental effects of climate change. Moreover, it confirms yet again that this Government is unwilling to even consider undertaking necessary and urgent work to reduce our reliance on fossil fuels, and taking Australia's commitment to meet international emissions targets seriously.

Recommendation 7

6.104 The committee recommends that the Commonwealth Government take steps to address and effectively tackle climate change as an underlying cause of economic, social and environmental damage to the Reef and the Australian environment more broadly.

Senator Peter Whish-Wilson
Chair
Senator for Tasmania

19 IPCC, *Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C*, p. 11.

20 IPCC, *Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C*, p. 11.

Coalition Senators' dissenting report

1.1 Coalition senators do not support the findings of the majority committee report.

1.2 There has been exceptional transparency about this grant. Coalition senators note that:

- the then Prime Minister, Treasurer, and Environment and Energy Minister all made statements detailing the body of policy work that provided the basis for the grant;
- the Department of the Environment and Energy (the department) made a detailed submission to the committee, setting out the reasons for the making of the grant and the department's analysis underpinning the grant;
- the Grant Guidelines and Grant Agreement have been published in full on the department's website;
- the Australian National Audit Office (ANAO) has audited the award of the grant; and
- the Great Barrier Reef Foundation (the Foundation) has published all required milestone planning documents on its website.

1.3 The grant builds on years of work that this Government has undertaken to protect and preserve the Great Barrier Reef (the Reef), including the Reef 2050 Plan. This plan was made jointly between the Australian and Queensland Governments and provides the overarching framework for managing and protecting the Reef.¹ Funding under the grant to the Foundation is directed to the key priorities under the 2050 plan.

1.4 Much has been made of the Foundation's administrative costs for the grant, particularly the potential administrative costs under sub-contracts for Reef-related activities.

1.5 Coalition senators note that the Reef Foundation responded to the Auditor-General's findings on this matter. The Foundation clarified that it has a track record of not supplying administrative funding to its partner organisations, particularly large organisations, and that it is unlikely to do so with the projects funded under the grant.

1.6 Coalition senators note that some administrative funding may be appropriate for smaller community organisations delivering Reef-related activities.

1 Department of the Environment and Energy, 'Reef 2050 Long-Term Sustainability Plan', www.environment.gov.au/marine/gbr/publications/reef-2050-long-term-sustainability-plan-2018 (accessed 12 February 2018).

1.7 Moreover, Coalition senators consider that the Foundation's administrative costs have been considerably overstated.

1.8 This inquiry spent a lot of time hypothesising about why the grant was made to the Foundation.

1.9 However, the statements made by Ministers, the department and now the ANAO make it clear that the grant was developed following substantial policy work by the department, which built on the work of an interdepartmental taskforce. It then went through the ordinary Budget process.

1.10 The Government took the view that the grant was the most effective way to make a significant and urgent investment in the Reef, while also managing the Commonwealth Budget. This was only possible because this Government's good financial management meant that the Budget position in 2017–18 allowed for a record investment in the Reef.

1.11 The ANAO audit made clear that the Reef Foundation was identified as the obvious choice for the grant by the department, based on its experience working on Reef policy and programs over several years.

1.12 There was no Ministerial influence over this decision. Rather, the Foundation was chosen because of their proven track record of raising philanthropic funds, their long-standing experience in working with the department and other key stakeholders and the department's first stages of due diligence.

1.13 Coalition senators note that the Reef Foundation has met all milestones under the agreement, and commenced two early funding rounds for projects to improve water quality and citizen science.

1.14 In conclusion, Coalition senators reject the findings of the majority report, and support the Foundation's essential work that will protect and preserve the Reef for future generations.

Senator Jonathan Duniam
Deputy Chair
Senator for Tasmania

Appendix 1

Submissions, tabled documents, additional information, answers to questions on notice, correspondence and media release

Submissions

- 1 Great Barrier Reef Foundation
- 2 Australian Conservation Foundation
- 3 Climate Council of Australia
- 4 Science Party
- 4.1 Supplementary to Submission 4
- 5 WWF-Australia
- 6 Australian Coral Reef Society
- 7 Department of the Environment and Energy
- 7.1 Supplementary to Submission 7
- 8 Great Barrier Reef Marine Park Authority
- 9 Queensland Government
- 10 350.org Australia
- 11 Environmental Justice Australia
- 12 Mr David Arthur
- 13 The Wilderness Society
- 14 Australian Academy of Science
- 15 AgForce Queensland
- 16 Cape York Regional Organisations
- 17 Greenpeace Australia Pacific
- 18 The Australia Institute and Future Super
- 19 Professor Peter Mumby, University of Queensland
- 20 Tourism Tropical North Queensland
- 21 Port Douglas Daintree Tourism
- 22 Tourism and Transport Forum
- 23 Australian Marine Conservation Society
- 24 Ms Helen Smith

Tabled documents

- Department of the Environment and Energy – Opening statement (public hearing, Canberra, 21 September 2018)
- The Australia Institute – International Monetary Fund Working Paper (public hearing, Canberra, 21 September 2018)

Additional information

- Correspondence from Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, dated 1 August 2018
- Clarification of evidence from the Department of Industry, Innovation and Science, dated 28 September 2018 (public hearing, Canberra, 21 September 2018)
- Correction of evidence from the Department of Industry, Innovation and Science, dated 18 October 2018

Answers to questions on notice

- Australian Conservation Foundation – Answers to questions taken on notice, public hearing, Brisbane, 30 July 2018 (received 2 August 2018)
- Climate Council – Answers to question taken on notice, public hearing, Brisbane, 30 July 2018 (received 3 August 2018)
- Great Barrier Reef Foundation – Answers to questions taken on notice, public hearing, Brisbane, 30 July 2018 (received 9 August 2018)
- Great Barrier Reef Marine Park Authority - Answers to questions taken on notice, public hearing, Brisbane, 30 July 2018 (received 10 August 2018)
- Australian Government Solicitor – Answers to written questions taken on notice (received 6 September 2018)
- Australian Institute of Marine Science – Answers to written questions taken on notice (received 6 September 2018)
- CSIRO – Answers to written questions taken on notice (received 6 September 2018)
- Department of Industry, Innovation and Science – Answers to written questions taken on notice (received 6 September 2018)
- Department of the Prime Minister and Cabinet – Answer to written question taken on notice (received 7 September 2018)

-
- Minister for the Environment – Answers to written questions taken on notice (received 11 September 2018)
 - Department of the Prime Minister and Cabinet – Answers to written questions taken on notice (received 18 September 2018)
 - Department of Finance – Answers to questions taken on notice, public hearing, Canberra, 21 September 2018 (received 4 October 2018)
 - Australian Institute of Marine Science (AIMS) – Answers to questions taken on notice, public hearing, Canberra, 21 September 2018 (received 5 October 2018)
 - The Treasury – Answers to written questions taken on notice and questions taken on notice, public hearing, Canberra, 21 September 2018 (received 9 October 2018)
 - Australian Government Solicitor – Further answer to written questions taken on notice (received 28 September 2018)
 - The Hon Malcolm Turnbull – Answers to written questions taken on notice (received 1 October 2018)
 - Department of Finance – Answers to written questions taken on notice and questions taken on notice, public hearing, Canberra, 21 September 2018 (received 15 October 2018)
 - Great Barrier Reef Foundation – Answers to questions taken on notice, public hearing, Canberra, 18 September 2018 (received 16 October 2018)
 - Department of the Environment and Energy – Answers to written questions taken on notice and questions taken on notice, public hearing, Canberra, 21 September 2018 (received 19 October 2018)
 - Australian Academy of Science – Answers to written questions taken on notice (received 19 October 2018)
 - The Australia Institute – Answers to written questions taken on notice (received 19 October 2018)
 - CSIRO – Answers to written questions taken on notice and questions taken on notice, public hearing, Canberra, 21 September 2018 (received 22 October 2018)

Correspondence

- Correspondence from Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, dated 31 July 2018

- Correspondence to the Hon Malcolm Turnbull MP, Prime Minister, dated 14 August 2018
- Correspondence to the Hon Josh Frydenberg MP, Minister for the Environment and Communications, dated 14 August 2018
- Correspondence to Mr Grant Hehir, Auditor General, Australian National Audit Office, dated 15 August 2018
- Correspondence from Mr Grant Hehir, Auditor General, Australian National Audit Office, dated 24 August 2018
- Correspondence from Mr Stephen McIntosh, Rio Tinto, dated 30 August 2018
- Correspondence from Ms Janette Hewson, Peabody Energy, dated 4 September 2018
- Correspondence from Mr John Kunkel, Chief of Staff, Office of the Prime Minister, dated 10 September 2018
- Correspondence to the Hon Malcolm Turnbull, dated 6 December 2018
- Correspondence from Ms Anna Marsden, Managing Director, Great Barrier Reef Foundation, dated 21 December 2018

Media release

- Statement from the Chair, Senator Whish-Wilson, released 15 August 2018

Appendix 2

Public hearings

Monday, 30 July 2018 – Brisbane

Climate Council of Australia – via teleconference

Dr Martin Rice, Acting Chief Executive Officer and Head of Research

Australian Conservation Foundation

Mr Matt Rose, Economist

Mr Christian Slattery, Campaigner

Environmental Justice Australia

Mr David Barnden, Principal Lawyer

Australian Coral Reef Society

Dr Selina Ward, Councillor and Past President

Great Barrier Reef Marine Park Authority

Dr Russell Reichelt, Chairman

Ms Margaret Johnson, General Manager, Reef Strategy

Mrs Mandy Elliot, Assistant Director, Strategic Partnerships

Great Barrier Reef Foundation

Ms Anna Marsden, Managing Director

Mr John Gunn, Director

Department of the Environment and Energy

Mr Dean Knudson, Deputy Secretary, Environment Protection Group

Mr Stephen Oxley, First Assistant Secretary, Heritage, Reef and Marine Division

Ms Deb Callister, Assistant Secretary, Reef Branch

Mr Craig Moore, Director, Reef Trust Section

Tuesday, 18 September 2018 – Canberra

Great Barrier Reef Foundation

Dr John Schubert AO, Chair

Ms Anna Marsden, Managing Director

Dr Paul Greenfield, Director (via teleconference)

Mr Stephen Fitzgerald, Director

Mr Grant King, Director

Mr John Gunn, Director

Ms Theresa Fyffe, Executive Director, Projects and Partnerships

Friday, 21 September 2018 – Canberra

Commonwealth Scientific and Industrial Research Organisation

Dr Larry Marshall, Chief Executive
Dr Peter Mayfield, Executive Director, Environment, Energy and Resources
Dr John (Jack) Steele, Director, Science Impact and Policy
Dr Christian Roth, Senior Principal Research Scientist

The Wilderness Society

Mr Lyndon Schneiders, National Director
Ms Jessica Panegyres, National nature Campaigner

Australian Academy of Science

Ms Anna Maria Arabia, Chief Executive

Australian Institute of Marine Science

Dr Paul Hardisty, Chief Executive Officer
Mr David Mead, Executive Director Strategy and Development

Department of Finance

Dr Stein Helgeby, Deputy Secretary, Governance and APS Transformation
Mr David Fredericks, Deputy Secretary, Budget and Financial Reporting

The Australia Institute

Mr Richie Merzian, Director, Climate and Energy Program

The Treasury

Ms Meghan Quinn, Deputy Secretary
Mr Hamish McDonald, Assistant Secretary

Department of Industry, Innovation and Science

Ms Jane Urquhart, Head of Division, Science and Commercialisation Policy
Ms Clare McLaughlin, General Manager, Science Agencies Governance Branch
Mr David Wilson, General Manager, Commercialisation Policy

Department of the Environment and Energy

Mr Finn Pratt AO PSM, Secretary
Mr Dean Knudson, Deputy Secretary
Mr Stephen Oxley, First Assistant Secretary, Heritage, Reef and Marine Division
Ms Deb Callister, Assistant Secretary, Reef Branch
Mr Craig Moore, Director, Reef Trust Section
Ms Margaret Tregurtha, General Counsel