

Commonwealth Procurement – Inquiry based on Auditor-General's reports Nos. 61 (2016-17), 9 and 12 (2017-18)

Joint Committee of Public Accounts and Audit

**Submission by the Department of Infrastructure, Regional
Development and Cities**

January 2018

Introduction

The Australian Government has committed to delivering the 1,700 kilometre Melbourne to Brisbane Inland Rail project. In the 2017-18 Budget, the Government announced \$8.4 billion in additional equity funding to the Australian Rail Track Corporation (ARTC), a wholly Government owned company established under the *Corporations Act 2001*, which will build and manage the railway. This delivery commitment builds on the Government's prior commitment of \$893.7 million including grant funding for ARTC to bring the project to construction readiness.

The Auditor-General's Australian National Audit Office report No. 9 (2017-18) *Management of the Pre-construction Phase of the Inland Rail Programme* (ANAO report), tabled in Parliament on 27 September 2017, examined whether value for money is being delivered by ARTC during the preconstruction phase of the project. The ANAO report concluded that joint governance arrangements for the preconstruction program were largely appropriate and made three recommendations related to ARTC's risk management, records management and procurement practices. The ANAO report also highlighted a number of areas where the Department of Infrastructure, Regional Development and Cities (Infrastructure) can improve its scrutiny and oversight of ARTC's management of Inland Rail.

Infrastructure fully supports the ANAO's findings and recommendations on the need for robust governance systems to support ARTC's construction of Inland Rail, particularly during the transition from preconstruction to full project delivery. As a large and complex infrastructure project, strong oversight and assurance frameworks are essential in managing cost and scheduling risks for Inland Rail, as well as the Government's investment in ARTC.

Since the Government's decision to build Inland Rail, Infrastructure, together with the Department of Finance, have been working closely with ARTC to establish a tailored whole-of-project governance framework, including specific financing and project development agreements between Shareholder Ministers and ARTC.

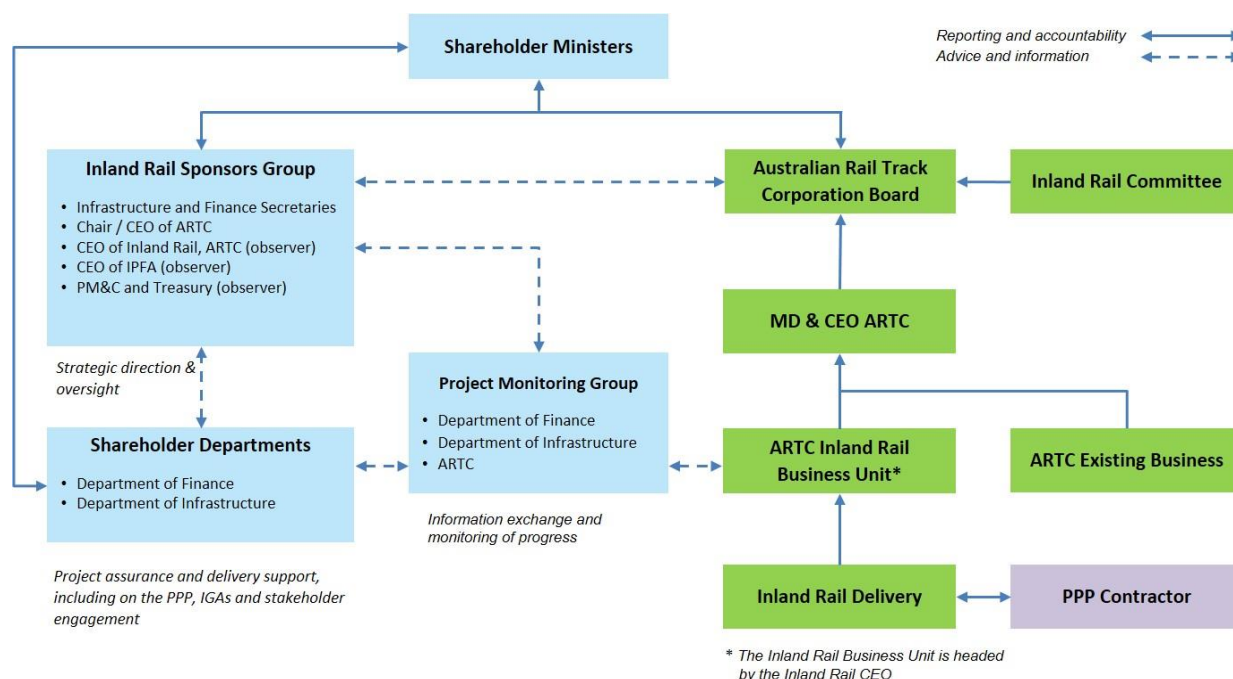
This submission focuses on the development and implementation of these Inland Rail governance agreements and complementary assurance and monitoring activities, noting the inquiry's terms of reference.

Implementation update

The lessons from the ANAO's inquiry on the management of the Inland Rail preconstruction program are instructive for ensuring ongoing project oversight and monitoring processes are properly focused and administered. While targeted at ARTC, Infrastructure has been working to capture the recommendations and findings of the ANAO report in establishing governance arrangements covering the 8-year delivery of Inland Rail.

These governance arrangements recognise the scale and complexity of the Inland Rail project, as well as its financing and delivery model. They provide the Commonwealth with high visibility of project delivery, appropriate whole-of-project oversight, risk management and assurance mechanisms. Figure 1 below outlines roles, responsibilities and reporting arrangements for the Australian Government and ARTC for the delivery of Inland Rail.

Figure 1: Roles, responsibilities and reporting arrangements for Inland Rail



Acronyms: IPFA (Infrastructure and Project Financing Agency), IGA (intergovernmental agreement), PPP (public private partnership)

Foundation agreements

There are three core governance documents between the Commonwealth and ARTC. These establish ARTC's role in project delivery and the expectations of Shareholder Ministers, oversight and financing arrangements, and the precise parameters of the Inland Rail project. The three governing documents are:

- **Statement of Expectations** – details Shareholder Ministers' expectations of ARTC in its delivery of Inland Rail, including setting out ARTC's obligations under the governance arrangements.
- **Equity Financing Agreement** – establishes the quantum of financing being provided to ARTC and the terms and conditions on which the funds will be provided.
- **Project Development Agreement** – sets out parties' project cooperation, development and implementation obligations and objectives, along with detailed reporting obligations to the Commonwealth.

The new governance arrangements are in addition to existing accountability and reporting obligations that ARTC has under the *Public Governance, Performance and Accountability Act 2013 (PGPA Act)*, the *Public Governance, Performance and Accountability Rule 2014*, the *Corporations Act 2001*, the *ARTC Commercial Freedoms Framework 2012* and other policy guidance as made by the Government.

Oversight and monitoring

Inland Rail governance arrangements establish strong lines of accountability between ARTC and Infrastructure and the Department of Finance (Shareholder Departments) to improve Shareholder Departments' administration and oversight of the project.

The senior forum is the Inland Rail Sponsors Group that provides strategic direction and oversight of ARTC's delivery of Inland Rail. This forum comprises the Secretaries of Infrastructure, Finance and the Chair of ARTC. It also includes Department of the Prime Minister and Cabinet, Department of the Treasury, the Infrastructure and Project Financing Agency as observers.

The Commonwealth's oversight is further supported by a Project Monitoring Group that provides a management level interface for information exchange and monitoring of project progress.

Infrastructure has placed strong emphasis on ARTC's reporting obligations, in particular on the procurement related matters identified in the ANAO report, and has increased oversight of spending on property, staffing, single-source tenders, contract variations and instances where work has commenced prior to contract execution. These items have been specifically included as part of prescribed monthly project reporting requirements by ARTC.

Shareholder Departments are also ensuring that governance arrangements provide comprehensive rights for access to project information and the ability to undertake a project review at any time to support the Commonwealth's assurance program if needed.

Following release of the ANAO report, Shareholder Departments have closely engaged with ARTC, including through quarterly shareholder meetings and the Inland Rail Sponsors Group, on the progress of ARTC's implementation of the ANAO report's recommendations. This includes progressing the procurement of a fit-for-purpose risk management system, improving records management and better supporting transparency and value for money in contracting arrangements.

Shareholder Departments continue to engage with ARTC on the implementation of the ANAO report's findings and recommendations, noting this process is ongoing. As noted, at a broader level, the key issues raised by the ANAO report regarding ARTC's management of the Inland Rail preconstruction program are addressed within the governance frameworks and foundation documents for the construction of Inland Rail.

Future plans and milestones

Infrastructure continues to reflect the findings and recommendations of the ANAO report through a number of oversight mechanisms linked to ARTC's delivery of Inland Rail.

Infrastructure's internal audit committee will undertake an audit of the governance arrangements for Inland Rail in 2018, reflecting the project is a major priority of the Government and Infrastructure. The internal audit is expected to assess the Inland Rail governance arrangements to ensure there is appropriate oversight of expenditure, governance structures and reporting arrangements established between ARTC and the Commonwealth. Any recommendations from the audit will be considered by Infrastructure, which may include ongoing refinements to governance processes, where appropriate.

Shareholder Departments are engaging external advice to support a thorough and structured 'deep dive' on ARTC's next Corporate Plan. The review will help to ensure that ARTC meets its obligations, including under the Equity Financing Agreement and the *PGPA Act*, for the preparation of the Corporate Plan for Shareholder Ministers. It will also confirm that ARTC makes the appropriate company financing contributions towards the construction of Inland Rail. The review will strengthen Shareholder Departments' oversight of the company, as well as the company's delivery of Inland Rail. The review will be finalised in mid-2018, with ARTC's Corporate Plan released by 31 August 2018, consistent with *PGPA Act* requirements.

Infrastructure is also engaging external support to design and implement an effective assurance framework to support Shareholder Departments scrutinise the regular reporting provided by ARTC, verify ARTC claims for equity payments and ensure that ARTC is meeting the agreed project objectives and achieves value for money in its project delivery. The assurance framework is to be finalised in early 2018, with a subsequent review after 12 months to assess whether any refinements are required to reflect changes in the project's development.