

The Senate

Finance and Public Administration
References Committee

Regional Partnerships and
Sustainable Regions programs

October 2005

© Commonwealth of Australia 2005
ISBN 0 642 71580 7

This document is prepared by the Senate Finance and Public Administration
References Committee and printed by the Senate Printing Unit, Parliament House,
Canberra.

Members of the Committee for the inquiry

Senator Michael Forshaw (Chair) ALP, NSW
Senator David Johnston (Deputy Chair) LP, WA (replaced Senator Mitchell Fifield)
Senator Guy Barnett LP, TAS (replaced Senator John Watson)
Senator Carol Brown ALP, TAS
Senator Andrew Murray AD, WA
Senator Kerry O'Brien ALP, TAS (replaced Senator Claire Moore)

Senator Kim Carr ALP, VIC (replaced Senator George Campbell 2 December 2004 to 22 June 2005; Senator Ursula Stephens 1 July 2005 to 17 August 2005, except on 14-15 July, 18-19 July 2005)

Senator Ursula Stephens ALP, NSW (replaced Senator George Campbell 22 June 2005 to 13 September 2005)

Participating members

Senators Abetz, Bartlett, Bishop, Boswell, Brandis, Bob Brown, Carr, Chapman, Colbeck, Conroy, Coonan, Crossin, Eggleston, Evans, Faulkner, Ferguson, Ferris, Fielding, Fierravanti-Wells, Ludwig, Lundy, Sandy Macdonald, Mason, McGauran, McLucas, Milne, Parry, Payne, Ray, Sherry, Siewert, Stephens, Trood and Webber.

Secretariat

Alistair Sands	Committee Secretary
Terry Brown	Principal Research Officer
Lisa Fenn	Acting Principal Research Officer
Melinda Noble	Principal Research Officer
Sophie Power	Principal Research Officer (August 2005)
Alex Hodgson	Executive Assistant

Committee address

Senate Finance and Public Administration Committee
SG.60
Parliament House
CANBERRA ACT 2600
Tel: 02 6277 3530 Fax: 02 6277 5809
Email: fpa.sen@aph.gov.au Internet: http://www.aph.gov.au/senate_fpa

TABLE OF CONTENTS

Members of the Committee for the inquiry.....	iii
Executive Summary	ix
Introduction	ix
Obstacles to the conduct of the inquiry	ix
Regional Partnerships Program administration.....	xi
Case studies	xii
The Sustainable Regions Program	xvii
Findings and recommendations.....	xviii
Recommendations	xxi
List of Abbreviations	xxv
Chapter 1 - Introduction	1
Terms of reference	1
Background to the inquiry.....	2
Conduct of the inquiry	3
Obstacles to the conduct of the inquiry	4
Possible matters of privilege	11
Structure of the report	13
Chapter 2 - Regional Partnerships Program	17
The RP program	17
The RP guidelines	18
Strategic Opportunities Notional Allocation (SONA)	20
Role of the minister	24
Expenditure	25
Distribution of grants	28
Administrative processes	31
Funding agreements	35
TRAX.....	36
Audit and Review.....	37
Chapter 3 - The Area Consultative Committees.....	41
Overview	41
Structure and operation of the ACCs	42
Role and functions of the ACCs.....	45

Chapter 4 - Beaudesert Rail.....	59
Background	59
Commonwealth Government involvement	63
Financial viability.....	65
Chapter 5 - Tumbi Creek.....	69
Introduction	69
Background	69
Evolution of the project proposal	70
Issues relating to the administration of RPP	82
Conclusions	95
Chapter 6 - The A2 Dairy Marketers project	97
Background	97
A2DM's applications for SRP and RPP funding.....	100
Impact of the A2DM grant announcement.....	115
Conclusion.....	117
Chapter 7 - Primary Energy Pty Ltd.....	119
Introduction	119
Background	119
Application.....	119
Transfer to Regional Partnerships Program	124
Project progress and outcomes	133
Conclusion.....	135
Chapter 8 - RPP Grants in the Electoral Division of New England	137
Australian Equine and Livestock Centre.....	137
The inducement allegations.....	144
The National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia.....	153
Grace Munro Aged Care Centre	159
Chapter 9 - The Sustainable Regions Program	163
The program	163
The SR guidelines	166
Administrative processes	167
Audit and review	168
Sustainable Region Advisory Committees.....	168
Issues with the program	175

Chapter 10 - Atherton Tablelands Sustainable Region Advisory Committee.....	177
Background	177
Committee composition	178
Regional priorities	181
Application of program guidelines.....	185
Conclusion.....	195
Chapter 11 - Conclusions and Recommendations	197
Summary	197
Regional Partnerships Program.....	198
Sustainable Regions Program	205
Regional Partnerships and Sustainable Regions Programs	205
Government Senators' report - Summary of Government Senators' position	213
Structure of the report	213
Chapter 1 - Background.....	215
Terms of reference	215
Conduct of the inquiry	215
The claims of politicisation.....	216
The programs	218
Chapter 2 - The ACCs and SRACs	223
Area Consultative Committees	223
Sustainable Regions Advisory Committees	225
Chapter 3 - Response to majority report case studies.....	227
Chapter 4 - Outcomes for regional Australia: a showcase of RPP and SRP projects	235
Chapter 5 - Response to majority report conclusions	243
Chapter 6 - Government members' conclusions and recommendations...	247
Appendix 1 - List of Submissions	253
Appendix 2 - Tabled Documents	257
Appendix 3 - Public Hearings, Witnesses and Site Inspections.....	261

Appendix 4 - Answers to Questions on Notice	269
Appendix 5 - Additional information authorised for publication.....	273
Appendix 6 - Correspondence relating to the Committee's request to ACCs and SRACs	279

Executive Summary

Introduction

This inquiry into the administration of the Regional Partnerships Program (RPP) and Sustainable Regions Program (SRP) has been extensive, lengthy and important. It was established on 2 December 2004 following allegations raised in parliament and the media about the misuse of the programs in the lead up to the 2004 federal election. Concerns raised included allegations of serious impropriety in the approval and announcement of certain grants, and the discovery that certain procedures governing the administration of the programs had been concealed from public view. Allegations were also made by a member of the House of Representatives that political conditions were placed on several grants made under the Regional Partnerships Program.

These allegations emerged against a background of concerns about the expenditure of public money through these programs and their predecessors, including an inquiry by this Committee into a funding matter under the Dairy Regional Assistance Program (Dairy RAP), one of RPP's predecessor programs.¹

Between 2 February and 15 September 2005, the Committee conducted nineteen public hearings across the length and breadth of Australia. The Committee also conducted four site inspections of projects approved under RPP. The Committee took evidence from 99 witnesses at these hearings, and received 56 submissions and seven supplementary submissions.

Obstacles to the conduct of the inquiry

DOTARS/ACCs/SRACs

The Committee's examination of the matters referred to it by the Senate was hindered by a lack of cooperation from the Department of Transport and Regional Services (DOTARS), the department responsible for the administration of the RP and SR programs. On a number of occasions, DOTARS failed to provide the Committee with timely and accurate information. DOTARS also refused to provide access to departmental witnesses with specific knowledge of the matters examined.

The Committee decided during the inquiry process to seek access to copies of RPP and SRP applications and Area Consultative Committee (ACC) and Sustainable Region Advisory Committee (SRAC) recommendations on these applications. This information was of central importance to the Committee's examination of the assessment and decision making process for both programs, as well as addressing term of reference (b) regarding recommendations from area consultative bodies. DOTARS refused this request, despite disclosing such information to the Committee's earlier

1 Senate Finance and Public Administration References Committee Report, *A funding matter under the Dairy Regional Assistance Program*, June 2003.

inquiry into Dairy RAP. This led to a cost in terms of time and effort as the Committee was forced to seek this information directly from ACCs and SRACs. All ACCs and SRACs eventually provided the information, although some only complied after the Committee ordered them to provide the documents.

Of grave concern, however, were the further attempts of DOTARS to obstruct the inquiry by providing misleading information on two occasions to ACCs and SRACs regarding the powers of Senate committees, the obligations on those bodies to comply with the Committee's request and the privileges afforded witnesses providing evidence to committees. This required the Committee Chair to write to DOTARS warning that the dissemination of incorrect advice about committee powers and procedures constitutes interference in the process of the inquiry and may be considered a contempt of the Senate.

Further, at the time of finalising the report the Committee was still awaiting answers to a substantial number of questions taken on notice by the department. The Committee understands that the answers had been compiled by the department and provided to the minister's office some time ago. The delays and failure to respond by both the department and the minister are unacceptable as they had had many months to provide the information requested.

Misleading evidence

The Committee received evidence in answers to questions on notice which contradicted evidence given by Wyong Shire Mayor, Cr Brenton Pavier, at a public hearing on 24 February 2005. The Committee considered that the answers to questions on notice provided a *prima facie* case that the Mayor's oral evidence was deliberately false and misleading and therefore may have constituted a contempt of the Senate. The Committee resolved to raise a matter of privilege under standing order 81, and wrote to the President of the Senate asking that he give precedence to a motion to refer the matter to the Committee of Privileges, in accordance with that standing order.

On 5 September 2005 the President made a determination giving precedence to the motion that the matter be referred to the Senate Committee of Privileges. The motion was put to a vote in the Senate on 7 September 2005 and negatived. This was a highly unusual development. Normally, following a determination by the President such motions are passed without debate. The Committee records its dismay that on this occasion the Senate departed from longstanding practice.

Failure to provide evidence

Mr Greg Maguire, a witness central to the allegations made by Mr Tony Windsor MP that he was offered an inducement not to stand for the seat of New England at the 2004 federal election, failed to provide evidence to the Committee that he had previously undertaken to provide on notice. The information the Committee sought concerned Mr Maguire's claims that his companies had made contributions to Mr Windsor's state and federal election campaigns. His refusal to provide the information made it difficult to not only corroborate his evidence before the inquiry but also to

verify whether Mr Maguire had disclosed these election contributions to the Australian Electoral Commission (AEC). Mr Windsor and his former campaign manager, Mr Stephen Hall, denied that Mr Maguire had made any contributions to Mr Windsor's election campaigns. Given the obligation on both donors and recipients to disclose both cash and in-kind contributions to election campaigns, the Committee is concerned that Mr Maguire may be in breach of the Electoral Act. The Committee therefore intends to refer this matter to the AEC for examination.

Regional Partnerships Program administration

Chapter 2 provides an overview of administrative aspects of RPP, including the program guidelines, assessment and approval procedures, funds approved, and evaluations and reviews of the program. A number of concerns with the accountability of aspects of the program are raised, providing context for the case studies presented later in the report. Areas of particular concern include the use of the Strategic Opportunities Notional Allocation (SONA) procedures to approve projects that do not meet the published RPP eligibility criteria, political bias in the levels of funding approved across electorates and the striking increase in funding approvals prior to the 2004 federal election. Analysis of grants approved from the commencement of the program through to 31 December 2004 shows that over half of the total funding approved in this period was approved in the three months preceding the election announcement.

Area Consultative Committees (ACCs)

ACCs fulfil two key roles in relation to the RP program: providing information and assisting proponents in developing applications, and providing comments and recommendations to the department on applications made from their region. ACCs also have primary responsibility for promoting the program. The Committee received generally favourable evidence regarding the competence and effectiveness of the ACCs in performing these roles, and the dedication of ACC members and staff to the progress of their regions.

The Committee considers that the involvement of ACCs in RPP application development is an important safeguard for ensuring that applications are of a high standard and meet the program guidelines. The Committee also considers that the ACCs' comments on applications provide an important source of advice and means of assessing the local priority given to projects.

According to administrative procedures for RPP, applications should be automatically referred to the relevant ACC, and ten working days allowed for the ACC to provide comments and recommendations. However, the Committee became aware of applications that were not forwarded to ACCs for comment, or where the ACCs were given insufficient time to consider and rate the applications. The Committee considers that in bypassing the ACC review process, the department sidestepped an integral part of the assessment process.

Case studies

The Committee examined in detail the circumstances surrounding the application, assessment, approval and announcement of RPP grants for the following six projects:

- The Beaudesert Rail heritage railway;
- Dredging at Tumbi Creek;
- Primary Energy Pty Ltd's grains to ethanol plant proposal;
- A2 Dairy Marketers' milk processing plant proposal;
- The Australian Equine and Livestock Centre; and
- The University Of New England National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia.

These case studies point to serious deficiencies in the transparency and accountability of processes by which projects are brought forward, considered and approved for funding under RPP. In some cases, evidence points to undue political pressure to expedite grant approval and announcement at the detriment of sound application development and assessment. While the Committee recognises that many beneficial projects have been funded under the program, the case studies involving grants totalling in excess of \$15.5 million show that there is significant scope for improving the administration, accountability and transparency of RPP.

Beaudesert Rail

The Beaudesert Rail (BR) was the recipient of four Commonwealth Government grants totalling \$5.7 million. These comprised a grant of \$75,000 plus GST to produce a business and marketing plan; \$5 million from the Centenary of Federation fund to develop and operate a heritage railway; \$10,000 plus GST for a report on BR's financial position and suggestions for a way forward; and a \$600,000 grant under the RP program.

The Committee concluded that the \$600,000 RPP grant to BR approved in November 2003 was made for political purposes. Documents provided in evidence to the Committee reveal that in the final days leading up to the decision to provide BR with an RPP grant rather than a loan, the then Deputy Prime Minister, The Hon John Anderson MP, who was also the portfolio minister for RPP, was involved in discussions with the Prime Minister's office about the matter of government assistance for Beaudesert Rail. It appears that this was when the proposed form of assistance changed from a loan to an RPP grant. DOTARS was still unaware of this change the day before the grant was approved and was continuing to work on the basis that any funding would be in the form of a loan.

This project completely bypassed the program's normal assessment procedures. Besides DOTARS being cut out of the process, BR was not required to make an application for RPP funding and the relevant ACC was not given an opportunity to

comment on the project. Evidence also shows that the department was not satisfied that the project was financially viable and was still seeking evidence of the project's prospects of solvency just days before the grant was approved.

The Committee considers that the BR grant serves as a warning of the effects of expediting projects without undertaking adequate due diligence checks. Beaudesert Rail's financial viability was marginal at best (it was under administration at the time of the RP grant) and it ceased operation in August 2004. Creditors took possession of its assets in February 2005.

The manner in which the government resorted to using program funds for the BR grant reveals the disregard on the part of its most senior ministers for the RPP guidelines. It is one of several examples the Committee found of the virtually unfettered discretion in the hands of ministers under this program. The other striking aspect of the BR case is that program funds were used to achieve a political outcome in a government-held electorate following direct intervention from the Prime Minister.

Tumbi Creek

Two grants totalling \$1.496 million to Wyong Shire Council for dredging work at the mouth of Tumbi Creek were approved by Parliamentary Secretary Kelly in mid 2004. The Committee was concerned about the allocation of such a large grant to a project with limited beneficiaries which provided a short-term rather than a long-term solution, particularly given that sustainability is an important feature of the RPP project viability criteria.

The Tumbi Creek dredging grant applications were assessed and approved within remarkably short time frames when compared with many other RPP grants. Departmental witnesses advised the Committee that the Parliamentary Secretary's office had requested that the department give the project priority.

The Committee is particularly concerned that the haste with which these grants were approved meant that normal application development and assessment processes were circumvented. On the advice of a ministerial staffer the Council submitted its applications directly to DOTARS, rather than preparing the applications in consultation with the relevant ACC. The Committee received evidence that the relevant ACC had a number of concerns about the project, yet the ACC's comments on the first application were not forwarded to the Parliamentary Secretary before the funding decision was made and the ACC was not provided with a copy of the second application.

A high degree of political collaboration involving ministerial advisers, the federal member's office and members or officials of the Council was evident in relation to this particular RPP project. In one instance, involving a ministerial adviser countermanding departmental advice, the Committee considers that the communication was entirely inappropriate and is evidence of wider concerns about the unchecked growth in the power of ministerial staffers.

The lack of necessary state licences, required before the dredging work could proceed, is another example of the haste with which this grant was approved and announced. The latitude in the RPP guidelines meant that while the dredging project remained effectively ineligible to actually receive funding until the relevant approvals and licences were obtained, the grant announcement could still be made. RPP funding for the dredging work was announced by the Prime Minister in a marginal electorate just days before the 2004 federal election was announced. Yet, as at mid-August 2005, a funding agreement for the project still had not been entered into.

The A2 Dairy Marketers project

The Committee examined a \$1.27 million RPP grant approved by the Hon De-Anne Kelly MP, then Parliamentary Secretary to the Minister for Transport and Regional Services, on 29 August 2004. The grant was for A2 Dairy Marketers Pty Ltd (A2DM) to establish a milk processing plant on the Atherton Tablelands, Qld. The approval, which was announced during the federal election period, was rescinded before funds were committed because A2DM went into voluntary administration less than one month after the grant was announced.

The case of A2DM raises serious concerns about the administration of the Regional Partnerships Program. In particular, it exposes the risks inherent with fast-tracking applications and failing to heed an area consultative committee's warning that a project application required more investigation and development.

The Committee is concerned that due to political pressures to process the application within a short timeframe, a proper due diligence process was not undertaken by the department. The 'due diligence' assessment carried out prior to the department making its recommendation to the minister appears to have only been a compliance check. The Committee found that DOTARS was unaware of information fundamental to the viability of the project, including A2DM's tenuous financial situation and the legal action pending against it by a Queensland government department.

This 'after the fact' due diligence, by making funding subject to conditions to be met after grants are approved, allows applications to be expedited so that the political benefits of announcements can be achieved. In this case, this practice had damaging effects not only on the proponent, but also on project partners, the local industry and community. The announcement of the grant with its implication of government support for the project instilled confidence in local farmers that the project was viable and would go ahead, and encouraged a number of farmers to adjust their businesses towards producing A2 milk.

The Committee believes that the government must accept responsibility for expressing support for projects that are ultimately doomed to fail, and the consequences that reach beyond the proponent throughout the local community and industry—even in cases where no public funding was expended.

Primary Energy

The Committee's examination of the Primary Energy case highlights concerns about the administration of applications made under one program but funded under another, the way the Strategic Opportunities Notional Allocation (SONA) procedures are employed to circumvent eligibility restrictions and the latitude for intervention at the ministerial level under discretionary programs such as RP.

The application was made under a predecessor program to RPP but, on the cessation of that program, assessed and funded under RPP. While DOTARS categorised the project as relatively 'high risk' compared to others funded under RPP, like the cases of Tumbi Creek and A2DM, the assessment of this project was fast-tracked at a minister's request and resulted in a \$1.2 million grant.

The reason for the haste attached to the Primary Energy application was not adequately explained but the evidence raised serious concerns. Due diligence testing appeared to be short-circuited, despite the project being considered 'high risk'. The evidence also revealed confusion between the department and the ACC about who was responsible for due diligence and risk assessment, symptomatic of the general level of confusion about this key check under the RP guidelines.

The area of gravest concern about the Primary Energy project relates to the ministerial involvement in the department's assessment of the application. The direction from one minister to the department to expedite the application to allow funding to be provided within two weeks seemed to pre-empt any rigorous assessment of the project. The Committee found that the original departmental advice to the minister on the application was altered following the intervention of Mr Anderson's chief of staff at senior levels in the department. Although departmental officers gave conflicting evidence on the chain of events leading to the change of advice, evidence from the former acting secretary of the department at the time reveals that the revised advice differed markedly from the department's original advice.

This was not only another example of the high degree to which ministerial offices intervened in certain projects but also a case which transgressed the department's practice of quarantining ministers from decisions related to applications from their own electorates. Because the application concerned a project in Minister Anderson's electorate, neither the minister nor any of his staff should have been involved in any way with the decision making on the project.

Another parallel with other case studies was the use of the SONA guidelines to bypass the eligibility criteria of the RP program. DOTARS admitted that the Primary Energy application fell outside the RP guidelines, claiming that it conformed with the guidelines of the defunct program under which the application had been made. Ministerial pressure to expedite the processing of the application appears to have prevented the department from requesting a fresh application from Primary Energy under the RP guidelines, with the department opting instead to assess the project under the SONA guidelines. The Committee found that in a case like Primary Energy the

use of the SONA guidelines leaves the way open for cutting corners in relation to due diligence testing and circumventing proper rigorous assessment of 'high risk' projects.

RPP grants in the electoral division of New England

The electoral division of New England featured prominently in the inquiry due to the proliferation of issues that emerged about the operation of the Regional Partnerships Program in that electorate. The Committee examined allegations that the Independent member for New England, Mr Tony Windsor MP was offered an inducement not to stand for the seat of New England at the 2004 federal election. The issues also included his claims that political conditions were put on grants made to three projects in the New England electorate.

Mr Windsor claimed that the grant to the Australian Equine and Livestock Centre, which was announced in September 2004 as a \$6 million election commitment to be funded from RPP, was made conditional on his removal from the equine centre working group. He claimed that this condition had been imposed to prevent him taking credit for the project. The Committee found that there was at least a perception among some people involved in seeking an RP grant for the project that Mr Windsor's involvement would not be helpful in obtaining funding. However, the evidence was not conclusive that any such condition had been imposed on the grant.

Allegations of electoral bribery were investigated by the Committee in the context of Mr Windsor's claims regarding the equine centre grant. This matter was also the subject of an investigation by the Australian Federal Police, which had found that no further action was necessary. Mr Windsor alleged that an intermediary, Mr Greg Maguire (the chair of the equine centre working group), had offered him an inducement on behalf of the then Deputy Prime Minister, the Hon John Anderson MP, and Senator Sandy Macdonald. The Committee received conflicting evidence. Without compelling and incontrovertible evidence, a committee of the Senate cannot make an adverse finding against a Senator or Member who has denied the allegations made against him. In the case of the alleged inducement, the evidence is not sufficient for this Committee to depart from that principle.

Mr Windsor also alleged that staff members of the University of New England had received a \$4.95 million RPP grant for the National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia (SiMERR) in return for favourable comment in a local newspaper about the National Party. The Committee found that the National Party sought to obtain political advantage from the grant by way of advertisements carried in the local newspapers at the time of the centre's official opening, and the university did not act appropriately in having its SiMERR advertisement appear with a party political advertisement. But the Committee found there was no evidence to prove Mr Windsor's allegation about 'cash for comment'.

In the case of the allegations about the opening of the Grace Munro Centre, which was not the subject of an RPP grant, the Committee believes that Senator Macdonald's attempt to exclude Mr Windsor from the opening was inappropriate. There is no

evidence, however, that the Senator attempted to coerce or threaten the council, even when it became apparent that the council intended to proceed to invite Mr Windsor to participate in the opening.

The Sustainable Regions Program

The Committee examined a second regional development program – the Sustainable Regions Program (SRP), which aimed to assist ten regions facing major economic, social or environmental change. The Committee's examination of the Sustainable Regions Program raised questions about the basis on which the participant regions were selected and how members of the Sustainable Region Advisory Committees (SRACs) were chosen. DOTARS declined to provide the Committee with evidence on these matters on the grounds that they were ministerial decisions.

The Committee noted that the due diligence process for Sustainable Regions applications is more rigorous than the Regional Partnerships requirements. It is of particular interest that due diligence checks are conducted *prior* to the SRAC recommendation and the department's advice being presented to the minister, in contrast to the practice found in some cases with RPP where due diligence checks only occurred *after* funding had been announced. Had this process existed under RPP, several of the failed projects investigated by the Committee may have been avoided.

The Atherton Tablelands Sustainable Region Advisory Committee

The Atherton Tablelands Sustainable Region Advisory Committee (ATSRAC) was the subject of a large amount of evidence to the inquiry. The evidence from members of the Atherton Tablelands community was overwhelmingly negative, and focused on perceptions of conflict of interest arising from the presence of four local mayors on ATSRAC, concerns about the inconsistent application of SRP guidelines, the lack of transparency of the application process and allegations of misplaced regional priorities. The Committee found that ATSRAC has little credibility with members of the community because of the number of projects that had failed or been viewed as unworthy.

The Committee notes that ultimately, responsibility for the composition and functionality of the ATSRAC board rests with the minister who appointed it. The Committee also recognises the difficult position of the mayors, who were elected to represent their shire but required, as members of ATSRAC, to subsume the interests of the shire under a strategic view of regional benefit. However, these tensions may not have been problematic had ATSRAC been appointed with a more balanced membership.

The three projects discussed in detail, JAM Custom Kitchens, the Atherton Hotel and Kalamunda Ecostay, raised concerns relating to competitive neutrality, conflict of interest and the lack of transparency of the application process. These projects highlight the inherent difficulties in providing government grants to the private sector, namely that while a grant may have a particular purpose, it frees up capital for other purposes (for example, in the case of the Atherton Hotel, the purchase of poker

machines), raises due diligence and competitive neutrality questions and can create fractures in small and already fragile communities. This particularly applies if the grant process is not seen as transparent, rigorous and equitably accessible.

Findings and recommendations

In general terms, the Committee's inquiry found that the main processes by which projects are proposed, considered and approved for funding under the Regional Partnerships Program are reasonably sound, although there is scope for strengthening these processes and building more rigour and transparency into the governance framework. The Committee makes a series of recommendations that would make it mandatory for all applications to be developed in consultation with ACCs and for ACCs to have a minimum of ten working days to consider all relevant applications. The Committee considers that involvement of the ACCs in the application development process is an important safeguard for the RP program. Multi-region funding applications would also have to be referred to all relevant ACCs under the improved assessment procedures that the Committee recommends DOTARS develops.

To assist ACCs to perform this enhanced role, the Committee recommends a review of the resourcing of ACCs and enhanced training of committee members and staff, as well as the adoption of three-year operational funding contracts to support strategic planning. It also recommends the Government conducts a review of the role of ACCs to ensure their contribution to regional development is maximised.

The Committee considers that greater transparency around the RP program is required to allow the Parliament to monitor this significant area of expenditure and as a check on arbitrariness and politicisation. It recommends that a biannual statement be tabled in the Senate that lists information basic to providing an adequate level of scrutiny of the program, including all RP grants approved in the preceding six months, the department's and ACC's recommendations for each grant and a statement of reasons for decisions which are inconsistent with departmental and/or ACC recommendations. The Committee also recommends that ACC recommendations be disclosed to funding applicants on request.

In the Committee's view, the SONA procedures represent a fundamental accountability black hole and need to be removed. They expand the scope for departmental and ministerial discretion to unacceptable limits, providing a default to fund projects without reference to the program criteria/guidelines. The Committee recommends that the SONA guidelines be abolished.

The Committee also concluded that the processes and procedures of the Sustainable Regions Program appear to be broadly sound, but its examination of SR projects in the Atherton Tablelands region highlighted problems arising from an insufficiently representative SRAC structure, opaque processes for appointing SRAC members and a lack of transparency around application processes. It makes recommendations to address those deficiencies.

To strengthen the governance framework for both programs, the Committee recommends that projects must have obtained relevant approvals or licences to be eligible for RP or SR funding. Similarly, it recommends that no program funding be approved for projects that fail to meet either program's guidelines and other tests including proper due diligence. It also calls for due diligence processes and competitive neutrality procedures to be strengthened.

One of the major areas of concern to emerge from the inquiry surrounds the role of ministers and their staff. The Committee found that current arrangements are not adequate to mitigate the risk of conflicts of interest. It is also deeply concerned by the intervention by ministerial offices in the department's assessment processes which the Committee considers was inappropriate and antithetical to the principle of the public service providing frank and impartial advice to ministers. While the Committee, on balance, supports the retention of ministerial discretion for each program, it recommends that ministers, parliamentary secretaries and their staff should be prevented from intervening in the assessment of grants. It also recommends strengthening existing measures to keep ministers at arm's length from applications that originate from their own electorates.

The finding that over half of grants approvals occurred in the three months leading to the federal election announcement in 2004 is another critical area of concern. This can only feed allegations of 'pork barrelling' with these programs and increase perceptions of bias, particularly in the context of election campaigns. The Committee recommends improved procedures to enhance the accountability of ministers during the sensitive period leading up to federal election campaigns.

Recommendations

Recommendation 1

11.8 The Committee recommends that the operation of the SONA guidelines cease.

Recommendation 2

11.18 The Committee recommends it be mandatory for all Regional Partnerships program applications to be developed in consultation with local Area Consultative Committees.

Recommendation 3

11.19 The Committee recommends that Area Consultative Committees must receive copies of relevant applications and be afforded an opportunity to consider and make recommendations not less than ten working days from receipt of the application.

Recommendation 4

11.21 The Committee recommends that the Department of Transport and Regional Services incorporates and outlines appropriate assessment procedures for multi-region funding applications into the published Regional Partnerships program guidelines.

Recommendation 5

11.22 The Committee recommends that multi-region funding applications be referred to all relevant Area Consultative Committees for review comments and recommendations.

Recommendation 6

11.27 The Committee recommends that a biannual statement be tabled in the Senate by the Minister representing the Minister for Transport and Regional Services, listing:

- the Regional Partnerships program grants approved in the preceding six month period;
- the Department of Transport and Regional Services' and Area Consultative Committee's recommendations; and
- where the funding decision is inconsistent with the departmental and/or Area Consultative Committee recommendation, a statement of the reasons for the decision.

Recommendation 7

11.31 The Committee recommends that the Government address inequities in the distribution of Regional Partnerships program funding consistent with the ANAO Better Practice Guide.

Recommendation 8

11.33 The Committee recommends that the exclusion of the Australian Capital Territory government from eligibility for Regional Partnerships program funding be rescinded.

Recommendation 9

11.37 The Committee recommends that the Government review resourcing of Area Consultative Committees, and training for committee members and employees, to ensure that they can adequately perform their role in relation to Regional Partnerships program.

Recommendation 10

11.38 The Committee recommends the introduction of three-year operational funding contracts for Area Consultative Committees.

Recommendation 11

11.41 The Committee recommends that the Government negotiates with each Area Consultative Committee in relation to key performance indicators, including job creation and partnership support, to ensure performance measures are regionally appropriate.

Recommendation 12

11.43 The Committee recommends that Area Consultative Committee recommendations be disclosed to funding applicants upon request.

Recommendation 13

11.45 The Committee recommends that the Government conduct a review of the role of Area Consultative Committees to ensure that their contribution to regional development is maximised.

Recommendation 14

11.47 The Committee recommends that the appointment process for Sustainable Regions Advisory Committee members, including selection criteria, be made public.

Recommendation 15

11.49 The Committee recommends that the Government adopts a skills-based approach in relation to the appointment of future Sustainable Regions Advisory Committees, including the two new bodies announced during the 2004 federal election campaign.

Recommendation 16

11.51 The Committee recommends that the Australian National Audit Office audit the administration of the Regional Partnerships and Sustainable Regions programs, with particular attention to the case studies highlighted in this report.

Recommendation 17

11.56 The Committee recommends that projects that cannot obtain or have not yet obtained relevant approvals or licences not be eligible for Regional Partnerships or Sustainable Regions funding.

Recommendation 18

11.60 The Committee recommends that competitive neutrality procedures be strengthened, including the introduction of a procedure for potential competitors to lodge objections.

Recommendation 19

11.62 The Committee recommends that due diligence processes be strengthened including a routine inquiry relating to legal action against applicants.

Recommendation 20

11.63 The Committee recommends that no program funding be approved for projects that do not meet Regional Partnerships and Sustainable Regions guidelines and fail other tests including proper due diligence.

Recommendation 21

11.67 The Committee recommends that it become formal policy that ministers and their staff are kept strictly at arm's length from decisions, including all relevant departmental advice, on applications from their own electorates. The portfolio minister and his or her staff should not be included in the circulation of departmental advice on applications for projects based in the minister's electorate.

Recommendation 22

11.68 The Committee recommends that Ministers and Parliamentary Secretaries, and their staff, should be prohibited from intervening in the assessment of grants.

Recommendation 23

11.70 The Committee recommends that from the 1 July preceding a general election, the following procedures apply to grant approvals and announcements:

- when the Minister's decision to approve or not approve a grant is different to the recommendation of either the Area Consultative Committee or the Department, or the funding amount approved by the Minister is different to the amount recommended, then the grant approval decision be made in conjunction with the relevant Shadow Minister. The Committee further recommends that all grants approved in these circumstances be announced jointly by the Minister and the Shadow Minister.

Recommendation 24

11.73 The Committee recommends that the government develops and discloses procedures to govern the cessation or transition of the Regional Partnerships and Sustainable Regions programs.

Recommendation 25

11.76 The Committee recommends that the government reviews the efficacy of a grants-based approach to regional development.

Recommendation 26

11.79 The Committee recommends that the Regional Partnerships and Sustainable Regions programs should complement, not compete with state and local government funding programs.

List of Abbreviations

ABBREVIATION	MEANING
A2DM	A2 Dairy Marketers Pty Ltd
ACC	Area Consultative Committee
AEC	Australian Electoral Commission
ANAO	Australian National Audit Office
ATSRAC	Atherton Tablelands Sustainable Region Advisory Council
BR	Beaunesert Rail
BSRSG	Beaunesert Shire Railway Support Group Inc.
CCACC	Central Coast Area Consultative Committee
CCEN	Central Coast Community Environment Network
DLWC	New South Wales Department of Land and Water Conservation
DOTARS	Department of Transport and Regional Services
EO	Executive Officer (of a SRAC/ACC)
EOI	Expression of interest
FNENSW	Far North East New South Wales
FNQACC	Far North Queensland Area Consultative Committee
GCRACC	Gold Coast and Region Area Consultative Committee
GST	Goods and Services Tax
KACC	Kimberley Area Consultative Committee

KAPA	Kimberley Aboriginal Pastoralists Association
KPI	Key Performance Indicator
KSRAC	Kimberley Sustainable Region Advisory Committee
NENWACC	New England North West Area Consultative Committee
RAP	Regional Assistance Program
RPP	Regional Partnerships Program
SiMERR	National Centre of Science, Information and Communication Technology, and Mathematics for Rural and Regional Australia
SONA	Strategic Opportunities Notional Allocation
SRAC	Sustainable Region Advisory Committee
SRP	Sustainable Regions Program
TEAC	Tasmanian Employment Advisory Committee
UNE	University of New England

Chapter 1

Introduction

Terms of reference

1.1 On 2 December 2004, the Senate referred the following matters to the Finance and Public Administration References Committee for inquiry and report by 15 August 2005. On 22 June 2005 the Senate extended the time to report to 6 October 2005.

- (1) The administration of the Regional Partnerships program and the Sustainable Regions program, with particular reference to the process by which projects are proposed, considered and approved for funding, including:
 - a. decisions to fund or not to fund particular projects;
 - b. the recommendations of area consultative committees;
 - c. the recommendations of departmental officers and recommendations from any other sources including from other agencies or other levels of government;
 - d. the nature and extent of the respective roles of the administering department, minister and parliamentary secretary, other ministers and parliamentary secretaries, other senators or members and their advisers and staff in the process of selection of successful applications;
 - e. the criteria used to take the decision to fund projects;
 - f. the transparency and accountability of the process and outcomes;
 - g. the mechanism for authorising the funding of projects;
 - h. the constitutionality, legality and propriety of any practices whereby any members of either House of Parliament are excluded from committees, boards or other bodies involved in the consideration of proposed projects, or coerced or threatened in an effort to prevent them from freely communicating with their constituents; and
 - i. whether the operation of the program is consistent with the Auditor General's 'Better Practice Guide for the Administration of Grants', and is subject to sufficient independent audit.
- (2) With respect to the future administration of similar programs, any safeguards or guidelines which might be put in place to ensure proper accountability for the expenditure of public money, particularly the appropriate arrangements for independent audit of the funding of projects.
- (3) Any related matters.

Background to the inquiry

1.2 This inquiry has its origins in a series of controversies surrounding the administration of the Regional Partnerships Program (RPP) and the Sustainable Regions Program (SRP). In late 2004 concerns were aired in parliament and the media about the programs with the major charge being that they had been used as 'slush funds' during the 2004 federal election campaign.¹ Concerns raised included allegations of serious impropriety in the approval and announcement of certain grants, and the discovery that certain procedures governing the administration of the programs had been concealed from public view.

1.3 Underlying concerns about the administration of these programs were not new. Examination in estimates and other parliamentary inquiries had raised serious doubts about the expenditure of public money through these programs and their predecessors. Allegations made by a member of the House of Representatives that political conditions were placed on several grants made under the Regional Partnerships Program were a further catalyst for the inquiry.²

1.4 The establishment of a Senate inquiry to investigate these matters had cross-party support. Senator Chris Evans, the Leader of the Opposition in the Senate, Senator Andrew Bartlett, then Leader of the Australian Democrats, Senator Bob Brown and Senator Meg Lees gave a joint notice of motion on 1 December 2004 to refer the administration of the Regional Partnerships Program and Sustainable Regions Program to this Committee for inquiry and report.

Previous inquiries

1.5 This is not the first occasion on which it has been necessary for this Committee to examine matters relating to the accountable administration of regional funding. During 2003 the Committee conducted a similar inquiry into a funding matter under the Dairy Regional Assistance Program (Dairy RAP).³ The Dairy RAP was one of eight precursor programs replaced by the Regional Partnerships Program.

1.6 That inquiry highlighted a number of weaknesses in the Dairy RAP project assessment and approval processes. The Committee made recommendations aimed at strengthening Commonwealth grant program guidelines, improving the documentation and transparency of the Dairy RAP assessment procedures undertaken by the Department of Transport and Regional Services (DOTARS) and maximising the

1 See for example, Lenore Taylor, 'Nationals roll out a barrel of porkies', *Australian Financial Review*, 21 November 2004, pp 1 and 8; and Editorial, 'Handouts must be above board', *Australian Financial Review*, 1 December 2004, p. 62.

2 The allegations are examined in Chapter 8 of this report.

3 Senate Finance and Public Administration References Committee Report, *A funding matter under the Dairy Regional Assistance Program*, June 2003.

benefit of the public money spent through the program by incorporating a 'best value' principle into program guidelines.⁴

1.7 In its response to the inquiry, the Government agreed to implement the recommendations, stating:

The Government is committed to transparency and accountability in administering grants programmes. It has accepted the recommendations of the Committee and has ensured these issues have been addressed in the policy and processes for the new Regional Partnerships Programme.⁵

1.8 Despite these assurances, many similar issues and concerns were raised during this inquiry into the Regional Partnerships (RP) and Sustainable Regions (SR) Programs.

Conduct of the inquiry

1.9 The Committee advertised the inquiry on its website and in *The Australian* on 15 December 2004, the *Daily Telegraph*, *Herald Sun*, *Courier-Mail*, *Hobart Mercury*, *Northern Territory News*, and *Adelaide Advertiser* on 18 December 2004, and *The Land*, *Queensland Country Life* and *Stock & Land* on 23 December 2004.

1.10 The Committee wrote to various stakeholders, including relevant Ministers and Parliamentary Secretaries, State Premiers and Territory Chief Ministers, the Australian Local Government Association, DOTARS, all Area Consultative Committees (ACCs), Sustainable Region Advisory Committees (SRACs) and the Australian National Audit Office (ANAO), drawing their attention to the inquiry and inviting submissions. All Senators and Members of the House of Representatives were also invited to make submissions.

1.11 The advertised closing date for submissions was 28 January 2005, although the Committee accepted a large number of submissions after that date. A total of 56 submissions and seven supplementary submissions were received. Most of the submissions were published, although a small number were received in camera. A list of published submissions is at Appendix 1. The Committee also received a voluminous amount of additional information, most of which was published. A list of tabled documents and additional information is at Appendix 2.

Public hearings and site inspections

1.12 Early during the inquiry the Committee resolved that all witnesses would be required to give their evidence under oath or affirmation. Between 2 February 2005

4 Finance and Public Administration References Committee Report, *A funding matter under the Dairy Regional Assistance Program*, June 2003, p. xv.

5 Australian Government, *Government Response to Finance and Public Administration References Committee Report – A Funding Matter under the Dairy Regional Assistance Programme*, tabled 27 November 2003, p. 1.

and 15 September 2005 the Committee conducted nineteen public hearings in Canberra, The Entrance, Brisbane, Cairns, Armidale, Tamworth, Launceston, Port Hedland, Broome and Bunbury. Evidence was taken from 99 witnesses at these hearings. In addition to the public hearings, the Committee held four in camera sessions at the request of witnesses.

1.13 The Committee also conducted site inspections of four Regional Partnerships Program approved projects—Tumbi Creek, Killarney Vale, NSW; The National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia, The University of New England, Armidale, NSW; the In Town Centre Inc. (also known as the 'Shoestring Café'), Bunbury, WA; and the Karnet Prison Vocational Integration Program, at Harvey Beef abattoir, Harvey, WA.

1.14 A list of the public hearings, including witnesses appearing, and the site inspections conducted by the Committee is at Appendix 3. The *Hansard* transcript of evidence taken at the public hearings is available on the Committee's homepage at www.aph.gov.au/Senate/committee/fapa_ctte/index.htm.

1.15 The Committee takes this opportunity to thank all those who made submissions and gave evidence to the inquiry.

Obstacles to the conduct of the inquiry

Incorrect information provided by DOTARS

1.16 The Committee's examination of the matters referred to it by the Senate was hindered by a lack of cooperation from DOTARS, the department responsible for the administration of the RP and SR programs.

1.17 On a number of occasions, DOTARS failed to provide the Committee with timely and accurate information. At the outset of the inquiry, the Committee requested that DOTARS provide a range of details relating to each project approved, not approved or withdrawn from the RP and SR programs. The Committee sought this information as an important starting point for its examination of the programs, as it would provide the necessary evidence from which to develop further lines of inquiry. The Committee requested the data on the 13 December 2004, asking that it be provided by 21 January 2005.

1.18 The Department provided selected information on 27 January 2005, but refused to provide some of the requested details on the basis that such material would disclose the nature of the department's advice to the Minister.⁶ The following day, the Committee's secretariat was advised that the data provided contained errors. Revised tables were subsequently provided by the department on 2 February 2005. Despite assurances from departmental witnesses as to the accuracy of the revised data, further

6 Mr Dobes, Acting First Assistant Secretary, DOTARS, correspondence, 27 January 2005.

errors were detected. For example, the information provided indicated that in some instances applications had been approved for funding before applications had actually been received.

1.19 DOTARS then undertook a complete check of the data, reconciling the project details against paper records held in its regional offices. Consequently, the Committee did not receive reliable data in response to its original request until May 2005.

Refusal to disclose information

1.20 DOTARS refused to provide the Committee with copies of RPP and SRP applications and ACC and SRAC recommendations regarding applications. As reported in Chapter 3, such information had been disclosed and openly discussed in the course of the Committee's inquiry into a funding matter under the Dairy Regional Assistance Program. Committee members also advised departmental witnesses that the Hon John Anderson MP, then Minister for Transport and Regional Services, had previously released information about funding applications.⁷

1.21 The department's reason for not providing application forms to the Committee was as follows:

...acknowledging the real sensitivities of applicants for government assistance who may be concerned that placing on the public record information for funding bids and non-approved applications may prejudice further attempts to refine or vary their proposals in order to gain financial support for projects.⁸

1.22 While claims for public interest immunity on the ground of damage to commercial interests have been accepted in the past by the Senate and its Committees, the 'blanket' nature of the department's claim was inadequate. Mr Harry Evans, Clerk of the Senate has noted:

The Senate made it clear in its resolution of 30 October 2003 that a claim on this ground must be based on specified potential harm to commercial interests, and in relation to information held by government must be raised by a minister. Statements that information is commercial and therefore confidential are clearly not acceptable.⁹

1.23 DOTARS' justification for withholding ACC and SRAC recommendations from the Committee's scrutiny was that these recommendations were considered advice to the minister:

7 *Committee Hansard*, 2 February 2005, p. 8.

8 Mr Yuile, Deputy Secretary, DOTARS, *Committee Hansard*, 2 February 2005, p. 3.

9 Mr Evans, Clerk of the Senate, *The Senate—Grounds for public interest immunity claims*, 19 May 2005, p. 5.

It is advice we take into account as we prepare our assessment and finalise our advice to the minister. The advice from the ACCs, together with our assessment, forms part of our formal advice to the minister.¹⁰

1.24 It must be noted that the refusal to provide ACC and SRAC recommendations was made by departmental witnesses rather than by the Minister. Following questions from Committee members, departmental witnesses undertook to confirm their approach with the Minister. The Committee was subsequently advised as follows:

CHAIR—It was confirmed by the minister?

Mr Yuile—Yes. The advice we received back through his office was that that was an appropriate position to take.

CHAIR—Was that a written response?

Mr Yuile—No, it was oral advice.

CHAIR—Can you say who from?

Mr Yuile—From one of his members of staff.¹¹

1.25 There was some disagreement between members of the Committee and DOTARS officers as to whether ACCs and SRACs recommendations could be considered advice to Ministers in the formal public policy sense, and therefore whether it was appropriate for departmental officers to withhold this information. As publicly funded bodies with an important role in administering programs through which public money is expended, ACCs and SRACs should be open to the scrutiny of the parliament. The advice of the Clerk of the Senate is again pertinent:

...the mere fact that information consists of advice to government is not a ground for refusing to disclose it. Again, some harm to the public interest must be established, such as prejudice to legal proceedings, disclosure of cabinet deliberations or prejudice to the Commonwealth's position in negotiations. Any general claim that advice should not be disclosed is defeated by the frequency with which governments disclose advice when they choose to do so.¹²

1.26 The department sought to justify non-disclosure of the advice on the basis of the public interest. However, as noted above, a 'blanket' approach was taken, rather than identifying specific applications or advices, or indeed specific reasons for the non-disclosure.

1.27 Apart from the accountability implications of the department's and minister's stance, the refusal to provide this category of information imposed a cost in terms of

10 Mr Yuile, *Committee Hansard*, 10 February 2005, p. 11.

11 *Committee Hansard*, 10 February 2005, p. 11.

12 Mr Evans, Clerk of the Senate, *The Senate—Grounds for public interest immunity claims*, 19 May 2005, p. 5.

time and effort on the Committee as it was forced to seek the information from ACCs and SRACs. This issue is discussed in more detail later in this chapter.

Access to departmental witnesses

1.28 The Committee was inconvenienced a number of times by DOTARS witnesses announcing on the day of hearings that their travel arrangements would require them to leave the hearing before their appearance was scheduled to end. The Committee accommodated these arrangements, but it restricted the amount of time available to question DOTARS witnesses and inconvenienced other witnesses by causing last minute changes to hearing programs.

1.29 The Committee made several requests for DOTARS officers with detailed knowledge and involvement with local projects, for example regional office staff, to give evidence at public hearings. The Committee's reasons for these requests were explained as follows:

Senator O'Brien—...I would hate to get to the situation where we have questions which you need to take on notice when they could be answered directly by having the person here to answer them. From the point of view of the conduct of the inquiry, it would be preferable if we had the information directly and expeditiously and not put the department, the committee secretary and the committee through the process of asking a question, having the question effectively asked from the table to those behind, an answer coming back to witnesses at the table and then that answer coming back to us. I think that affects the conduct of the inquiry. I think it would be preferable, if a responsible officer is here who has the confidence of the department, that the information be given directly.¹³

1.30 DOTARS consistently refused to allow regional office staff to give evidence, on the grounds that it was departmental policy that only staff at the Senior Executive Service level appear before Senate committees.¹⁴ This position was inconsistent with Department's conduct in an earlier inquiry. Regional office staff had appeared and given evidence at a public hearing in the course of the Committee's inquiry into the Dairy Regional Assistance Program.

1.31 The Committee's inquiry was frustrated by the fact that officers who could have assisted the inquiry were present at hearings at The Entrance, Cairns, Port Hedland and Broome, but were not allowed to give evidence. As a result, the precise situation which the Committee had sought to avoid occurred on several occasions. At The Entrance for example, Dr Gary Dolman, Assistant Secretary, Regional Communities Branch, relied heavily on the advice of the regional officer present in the audience to answer questions and to correct his evidence.¹⁵ This meant that although

13 *Committee Hansard*, 2 February 2005, p. 5.

14 *Committee Hansard*, 2 February 2005, p. 4.

15 See for example, *Committee Hansard*, 24 February 2005, pp 91-92.

the relevant officers were present to advise at hearings, the departmental witnesses' lack of first-hand knowledge slowed proceedings and thereby reduced the number and depth of matters the Committee could investigate in the course of the inquiry.

1.32 The Committee requested that departmental witnesses, including officers from the department's Western Australian regional office, give evidence at its public hearing in Broome. DOTARS refused this request on the grounds that it was too difficult to make travel arrangements at short notice and would not be an efficient use of officers' time.¹⁶ The Committee was therefore surprised to note that DOTARS officers were present, apparently at senior executives' request, to observe the hearing in Broome, the previous day's hearing in Port Hedland and the subsequent hearing in Bunbury.¹⁷ The Committee also received evidence that DOTARS staff from the national office were regularly able to attend ACC and SRAC meetings in Western Australia.¹⁸

1.33 In contrast to the above instances of obstruction, the Committee appreciated Ms Leslie Riggs' cooperation in attending hearings in August 2005, even though she was at that time no longer the responsible officer.

DOTARS' advice to the ACCs and SRACs

1.34 The most serious instances of DOTARS' interference and obstruction to the conduct of the inquiry were two occasions on which DOTARS provided misleading advice to ACCs and SRACs regarding the powers of Senate committees and the privileges afforded witnesses providing evidence to committees. The Committee's request for information from ACCs and SRACs and the advice given by DOTARS regarding that request is discussed below.

Request for additional information from ACCs and SRACs

1.35 As the department refused to provide copies of ACC and SRAC comments and recommendations, the Committee wrote to all 56 ACCs and the 8 SRACs requesting that they provide copies of all recommendations concerning Regional Partnerships Program and Sustainable Regions Program applications and minutes of the meetings at which the applications were considered. The request was made on the 4 February 2005 and ACCs and SRACs were asked to indicate their intended agreement to comply or otherwise by 9 February.

1.36 On 7 February, DOTARS sent advice to all ACCs and SRACs indicating that they were not obliged to accede to the Committee's request and that they should consider their responsibilities under legislation such as the Privacy Act and Criminal

16 Ms Riggs, Executive Director, Regional Services, DOTARS, correspondence, 8 July 2005.

17 *Committee Hansard*, 12 August 2005, p. 3.

18 *Committee Hansard*, 15 July 2005, pp 67-68.

Code when making their decision.¹⁹ This advice is included in Appendix 6 of this report. By the deadline of 9 February, 26 ACCs and SRACs had indicated they would comply with the Committee's request. Between 7 and 10 February, 21 ACCs and SRACs informed the Committee they would not provide the requested information. Some ACCs and SRACs indicated that their decision was a direct result of the advice given by DOTARS.

1.37 On 14 February the Committee sent a letter to those ACCs and SRACs that had not indicated their agreement to comply with the Committee's request. This letter clarified a number of points raised in the department's advice, including the obligations to Parliament and its committees carried by any body involved in the receipt and expenditure of public funds, and the extent of the Committee's powers, including that the powers of the Senate and its committees are not affected by Commonwealth legislation such as the Privacy Act. The Committee's letter also reiterated earlier advice regarding the opportunity for ACCs and SRACs to request that information provided be received in camera. A number of such requests were subsequently made and agreed to by the Committee.

1.38 A second email from DOTARS on 17 February caused some ACCs and SRACs to again alter their decision. This email and the subsequent response from the Committee to DOTARS are also included at Appendix 6.

1.39 Eventually, by 11 July 2005 all ACCs and SRACs had provided the requested information, although in some cases this required repeated contact from the secretariat and personal calls from the Chair of the Committee to the ACC/SRAC Chair. As a final resort, the Committee ordered the production of documents from two SRACs and five ACCs.²⁰ The Committee notes that departmental staff did assist the Committee in ensuring compliance with one of the orders, to Melbourne East ACC. By this stage, however, all ACCs and SRACs had provided information but for this one body.

1.40 A number of ACCs at first provided incomplete information. Many of these ACCs stated that they had not provided their recommendations about RPP applications because DOTARS had given them the impression that the Committee had been granted access to this information through the department's electronic TRAX system, which contains all ACC recommendations and comments. All of these ACCs provided the remaining information after a letter from the Secretary or an order for the production of documents from the Committee.

1.41 The Committee acknowledges that meeting the request placed a significant impost on the resources of these predominantly voluntary bodies and expresses its

19 Dr Dolman, DOTARS weekly email to ACC Chairs and Executive Officers, 7 February 2005, tabled document, 10 February 2005, pp 1-3.

20 The Committee ordered the production of documents from the Far North East NSW SRAC, Campbelltown-Camden SRAC, Peel ACC, Orana Development and Employment Council ACC, New England North West ACC, Melbourne East ACC and Far North Qld ACC.

gratitude for their assistance. In some cases, the willingness of ACCs and SRACs to cooperate and provide information to the inquiry reflected the confidence that their administrative practices were sound and accountable. That said, the Committee observed that some ACCs and SRACs were far more willing to cooperate with the inquiry than others. The Committee notes that in some instances this was due to the misleading advice provided by the department.

Delays in departmental evidence

1.42 Apart from providing erroneous evidence, the Committee experienced considerable delays in receiving answers to questions taken on notice by the department. These delays inevitably hindered the Committee's examination of critical aspects of the evidence.

1.43 At the time of finalising the report the Committee was still awaiting answers to a substantial number of questions taken on notice by the department. The Committee understands that the answers had been compiled by the department and provided to the minister's office some time ago. The delays and failure to respond by both the department and the minister are unacceptable as they had had many months to provide the information requested.

Invitations to give evidence declined

1.44 The Hon John Anderson MP, then Deputy Prime Minister and Minister for Transport and Regional Services, declined the Committee's invitation to make a submission to the inquiry. It is also regrettable in light of part 1(i) of the inquiry's terms of reference that the ANAO did not make a submission to the inquiry.

1.45 Although the Committee used its powers to order the production of documents, it did not use these powers to order witnesses to appear. Despite the initial reluctance of several witnesses to give evidence to the Committee, all those witnesses that eventually attended hearings did so at the Committee's invitation.

Possible offence by a witness

1.46 The Committee took evidence from Mr Greg Maguire, a central figure in the allegations of Mr Tony Windsor MP that he was offered an inducement not to stand for the seat of New England at the 2004 federal election. During his appearance before the Committee Mr Maguire claimed that his companies had made contributions to Mr Windsor's state and federal election campaigns. When asked to provide details to the Committee, he refused to answer but instead undertook to provide the information on notice. The information was important for corroborating some of Mr Maguire's evidence and was material to the Committee's examination of the matter.

1.47 Contrary to his undertaking at the hearing, Mr Maguire subsequently failed to provide the information to the Committee. The Committee wrote to Mr Maguire on three occasions to remind him of his undertaking. On the final occasion the Committee drew his attention to Senate procedural resolutions which make it an

offence for a witness to fail to answer questions and provide information when required to do so. Mr Maguire informed the secretariat that he would not be making a response.

1.48 During this process the Committee received fresh evidence which raised serious doubts about the veracity of Mr Maguire's statements. The Committee provided this evidence to Mr Maguire and invited him to comment. Mr Maguire also refused to respond to this material.

1.49 The Committee is deeply concerned by Mr Maguire's evasiveness on this matter. His refusal to provide relevant information made it difficult to not only corroborate his evidence before the inquiry but also to verify whether Mr Maguire had disclosed these election contributions to the Australian Electoral Commission (AEC).

1.50 Given the obligation on both donors and recipients to disclose both cash and in-kind contributions to election campaigns, the Committee is concerned that Mr Maguire may be in breach of the Electoral Act. The Committee is particularly troubled by the conflicting evidence provided by Mr Maguire and Mr Windsor, as well as Mr Maguire's refusal to clarify the matter despite repeated requests by the Committee for him to do so. The Committee intends to write to the Australian Electoral Commissioner asking that the matter be investigated.

Possible matters of privilege

Alleged interference with witnesses

1.51 The Committee received allegations from a witness that he had been threatened as a direct result of giving evidence to the Committee at a public hearing. Following a resolution of the Committee, the Chair wrote to the President of the Senate alerting him to a possible matter of privilege. The Committee asked the witness whether he would be prepared to support his claims were they referred to the Senate Committee of Privileges for investigation, but he chose not to pursue the matter. Accordingly, the Committee was unable to take further action on the complaint.

Possible false or misleading evidence

1.52 As described in Chapter 5, the Committee received evidence in answers to questions on notice which contradicted evidence given by Wyong Shire Mayor, Cr Brenton Pavier, at a public hearing on 24 February 2005. The Committee considered that the answers to questions on notice provided a *prima facie* case that the Mayor's oral evidence was deliberately false and misleading and therefore may have constituted a contempt of the Senate.

1.53 The Committee resolved to raise a matter of privilege under standing order 81, and wrote to the President of the Senate asking that he give precedence to a motion to refer the matter to the Committee of Privileges, in accordance with that standing order.

1.54 The letter to the President set out the principal reasons for raising the issue as a matter of privilege. These included that:

- The matter under examination at the public hearing concerned the ways in which a particular RP grant (the Tumby Creek dredging grant) departed from the normal application process and in particular the extent to which the applications involved direct liaison between the federal minister's office, the local federal member and the applicant, Wyong Shire Council.
- This examination related directly to term of reference (1)(d) of the inquiry - the nature and extent of the respective roles of the administering department, minister and parliamentary secretary, other ministers and parliamentary secretaries, other senators or members and their advisers and staff in the process of selection of successful applications.
- In examining this matter, a Committee member sought to know whether the Mayor had received any indication of a decision, or proposed decision to approve an additional grant for the project, prior to written notification from the Minister (on 26 August 2004). The Mayor's response, 'no', ended the Senator's line of questioning.
- Subsequent evidence showed that in an email of 9 August 2004, the Mayor along with several other individuals including the local federal member had been advised by a ministerial adviser that, 'At 9am on 26 August the full measure of Tumby Creek funding will be announced at the site'.²¹
- The Committee considered that this email contained *prima facie* evidence that Mayor Pavier made a false and misleading statement to the Committee at the hearing when he claimed that he was not aware of approval or expected approval for the additional grant application prior to the formal announcement on 26 August 2004. The Committee also considered that the Mayor's evidence to the hearing obstructed the Committee's work. By deflecting the Committee from further examining the extent to which the Tumby Creek grants process was intermeshed with planning for political campaigning by the local member and the minister's office, the Mayor's answer obstructed the examination of a matter central to term of reference (1)(d).

1.55 The Committee noted a letter received from Mayor Pavier in which he stated that, 'It has never been, nor is it, my intention to mislead a Senate enquiry'. Mayor Pavier also argued in relation to the email received that, 'Neither the extent or details of what was to be announced was divulged to me, but Council obviously required advice that an announcement was to take place so it could plan for a Ministerial visit'.²²

21 Mr Hallett, correspondence 9 August 2004, in answers to questions on notice, received 4 July 2005.

22 Mayor Pavier, correspondence, 11 August 2005.

1.56 Notwithstanding the above letter, the Committee considered that the Mayor's evidence to the hearing was false and misleading and obstructed the Committee's work.

1.57 In referring the case to the President, the Committee understood that its view was not conclusive and that it was for the Committee of Privileges to investigate and determine the matter.

1.58 On 5 September 2005 the President made a determination giving precedence to the motion that the matter be referred to the Senate Committee of Privileges. The motion was put to vote on 7 September 2005 and negatived. This was a highly unusual development. Normally, following a determination by the President such motions are passed without debate. Senator Faulkner, Chair of the Committee of Privileges, said:

I say to the chamber that it is core business of the Senate Privileges Committee to ensure the integrity of evidence and committee processes, particularly the protection of witnesses. In fact, most cases that the committee has dealt with have been on those matters. So I can fairly say that it is core business of the Senate Privileges Committee. There has been no occasion since 1988 when such a matter has not been automatically referred to the Committee of Privileges. Since the passage of the Parliamentary Privileges Act in 1987 and the parliamentary privileges resolutions in 1988, on only one previous occasion—that was in early 1998—has any such referral been negatived. There has been one instance only. So I cannot say to the Senate that to negative such a referral is unprecedented; it is not. It is almost unprecedented.²³

1.59 Senator Faulkner also emphasised the wider implications of the vote:

But I would say to the chamber that the most important reason to support this proposed resolution—the most important reason not to negative it—is that, if it is negatived, it will inevitably degrade the Senate's privilege system.²⁴

1.60 The Committee concurs with this view and records its dismay that the Senate departed on this occasion from longstanding practice.

Structure of the report

1.61 This report examines the administration of the Regional Partnerships and Sustainable Regions Programs, using case studies to illustrate some of the inadequacies and inconsistencies in the programs' administration. While the Committee recognises that many beneficial projects have been funded under these

23 *Senate Hansard*, 7 September 2005, p. 113.

24 *Senate Hansard*, 7 September 2005, p. 114.

programs, the case studies show that there is significant scope for improving the administration, accountability and transparency of each program.

1.62 The Committee did not evaluate the quantitative outcomes of individual projects funded under the RP and SR programs. In accordance with the terms of reference, the inquiry focused on the administration of the programs.

1.63 The report is structured in eleven chapters. Chapter 2 examines the Regional Partnerships Program, including the process by which projects are proposed, considered and approved for funding. Chapter 3 reviews the structure and operations of the Area Consultative Committees—bodies charged with an integral role in RP application development and assessment.

1.64 Chapters 4 to 8 present six case studies, examining in detail the circumstances around the application development, assessment, approval and announcement of RP grants for the following projects:

- The Beaudesert Rail heritage railway;
- Dredging at Tumbi Creek;
- Primary Energy Pty Ltd's grains to ethanol plant proposal;
- A2 Dairy Marketers' milk processing plant proposal;
- The Australian Equine and Livestock Centre; and
- The University Of New England National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia.

1.65 These case studies point to serious deficiencies in the transparency and accountability of processes by which projects are brought forward, considered and approved for funding under RPP. In some cases, evidence points to cases of undue political pressure to expedite grant approval and announcement at the detriment of sound application development and assessment.

1.66 Chapter 8 also examines allegations that Mr Tony Windsor MP was offered an inducement not to stand for the seat of New England at the 2004 federal election, and claims that political conditions were put on grants made to projects in that electorate.

1.67 Chapter 9 reviews the administrative processes governing the Sustainable Regions Program, including a description of the structure and aims of each of the Sustainable Region Advisory Committees.

1.68 In Chapter 10 the structure and operations of the Atherton Tablelands Sustainable Region Advisory Committee are reviewed in more detail. Issues relating to the operation of the SRP in that region, both in general and in relation to specific projects are examined and contrasted with the operation of the program in the Cradle Coast region.

1.69 In Chapter 11 the Committee draws conclusions from the evidence to the inquiry. A number of serious deficiencies in the accountability and transparency of the administration of the RP and SR programs are identified. The Committee has therefore made recommendations to improve accountability for the expenditure of public money through these programs.

Chapter 2

Regional Partnerships Program

2.1 The Regional Partnerships (RP) program, which commenced on 1 July 2003, is intended to give effect to the government's policy set out in the publication, *Stronger Regions, A Stronger Australia*. RP replaced eight precursor programs, the Regional Solutions, Regional Assistance, Rural Transaction Centres, and Dairy Regional Assistance programs and four regional structural adjustment programs.¹ As noted in Chapter 1, the funding of a project under one of those programs, the Dairy Regional Assistance Program, was the subject of a previous Finance and Public Administration References Committee report.²

The RP program

2.2 Detailed information on the RP program may be found in DOTARS' submission to the inquiry.³ That submission includes a number of attachments that describe all facets of the program, including, among other things, the guidelines for determining successful projects, the constitution and role of the 56 Area Consultative Committees (ACCs) that act as advisory bodies in the regions, and the role of the minister. Only some of these matters are discussed in this chapter. Issues related to the ACCs are discussed in the next chapter. Information about the program may also be accessed on the DOTARS Regional Partnerships website.⁴

2.3 In this chapter, the Committee outlines aspects of the structure and operations of the RP program which are critical to understanding how the program works and which are relevant to some of the case studies examined later in the report. These aspects are:

- Guidelines
- Strategic Opportunities Notional Allocation (SONA)
- The minister's role
- Expenditure, including election commitments
- Distribution of grants
- Administrative processes
- Funding agreements

1 DOTARS, *Submission 14*, p. 11.

2 Senate Finance and Public Administration References Committee report, *A funding matter under the Dairy Regional Assistance Program*, June 2003.

3 DOTARS, *Submission 14*.

4 DOTARS, Regional Partnerships website, www.regionalpartnerships.gov.au.

- The TRAX system
- Audit and evaluation.

The RP guidelines

2.4 The guidelines cover matters such as the aims of the program, the involvement of the ACCs and local government, accountability requirements and advice about how to apply for a grant. Other matters covered, and those elements of the guidelines which proved to be of most relevance to the inquiry, are assessment criteria and the eligibility of organisations and projects.

2.5 The guidelines were first published on the DOTARS website towards the end of June 2003, and have been revised since then.⁵ It is not clear when the revision was made, but it apparently involved a change to the eligibility criteria, in particular to the need for a project to have the necessary approvals and licences in place for it to be approved.⁶ This is discussed below in relation to eligibility for funding and is particularly relevant to the Tumbi Creek project discussed in Chapter 5.

Assessment criteria

2.6 The guidelines provide that:

To ensure the most effective use of Regional Partnership funds, priority will be given to those projects that demonstrate value for money by achieving their outcomes through the most efficient and effective means, securing appropriate funding from other sources and/or have exhausted other funding options.

Value for money will be determined taking into account the total request for Regional Partnerships funding and meeting the...assessment criteria.⁷

2.7 The RP guidelines set down several assessment criteria under three headings, namely, *outcomes*, *partnerships and support* and *project and applicant viability*.

2.8 Under *outcomes* the guidelines specify that a successful project would demonstrate that it would provide benefits to the community by, for example, meeting a demonstrated need or community demand for the project's outcomes. A successful project would also demonstrate that it would create or enhance opportunities in the community by, for example, providing infrastructure that enhances economic/social opportunities.⁸

2.9 Under *partnerships and support* the guidelines state that establishing community support is critical to the long-term success and ownership of a project. The

5 Ms Riggs, *Committee Hansard*, 10 February 2005, pp 45, 46.

6 Dr Dolman, *Committee Hansard*, 10 February 2005, p. 54.

7 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 3.

8 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 3.

guidelines define the ways in which it may be demonstrated that a project is a partnership and that it has community support. The guidelines read as follows:

Partnerships are a strong demonstration of support. Partnerships are established where individuals, private sector businesses, community/not for profit organisations, other organisations and any local, state and/or Australian Government agencies make a financial and/or in-kind contribution to your project.⁹

2.10 Under *project and applicant viability* the guidelines set down several criteria, including the demonstrated ability, or access to expertise, to manage the project both during and after funding and demonstrated sustainability beyond the funding period.¹⁰ The sustainability criterion is of some significance in the Tumbi Creek case study included in Chapter 5.

Eligibility

2.11 With some specified exceptions, entities registered under State or Commonwealth legislation, for example the *Corporations Act 2001*, can apply for Regional Partnerships funding. The exceptions include Australian and state government departments, individuals, and private enterprises and co-operatives that are considered commercial enterprises that are requesting funding for planning, studies or research.

2.12 ACT Chief Minister Mr Jon Stanhope MLA submitted that the RPP eligibility criteria disadvantage the ACT. All ACT government departments are ineligible to apply for funding despite the fact that the ACT government performs both state and local government functions:

This approach unfairly disadvantages the ACT. The ACT government is unique in Australia in that it delivers both State/Territory and local government functions. While other local governments in Australia can apply for RP program funds, the ACT cannot.¹¹

2.13 The Committee considers that these concerns are valid and that ACT government departments should be allowed to apply for funding for projects that would otherwise be eligible under the RPP guidelines.

2.14 The guidelines identify a number of different types of project that would not be eligible for funding. Ineligible projects include those that compete directly with existing business, unless production differentiation tests can be met,¹² and those that

9 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 4.

10 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 5.

11 Mr Stanhope MLA, ACT Chief Minister, *Submission 38*, p. 1.

12 For information about the process for assessing competitive neutrality, see Ms Riggs, correspondence, 8 July 2005, p. 2. Competitive neutrality is also discussed in relation to the SR program in Chapter 10.

could involve cost shifting or that duplicate funding from other sources. The guidelines also specify that proposals that cannot obtain, or have not yet obtained, the relevant approvals or licences to progress will not generally be considered. They also specify that retrospective costs cannot be funded.¹³

2.15 The guideline regarding the need for a project to obtain relevant approvals or licences gave rise to some confusion during the inquiry because the version of the guidelines on the DOTARS website contained contradictory requirements. The current guideline is reproduced in the paragraph above. The version of the guidelines on the website included that paragraph, but also specified that projects that 'could not obtain or were in the process of obtaining the relevant approvals or licences to progress' were *not eligible for funding*.¹⁴ This contradicts the above statement that such projects *will not generally be considered*.

2.16 The eligibility criteria are particularly significant with regard to the Strategic Opportunities Notional Allocation procedures that are discussed below.

Strategic Opportunities Notional Allocation (SONA)

2.17 Some funds within the RP program are 'available each financial year for new projects that are seen as strategic opportunities'.¹⁵ According to the RP Internal Procedures Manual, SONA 'will allow the Government to respond quickly and easily to a diverse range of situations which may fall outside the administrative constraints of RP, but which are consistent with the purposes of RP'.¹⁶

2.18 The SONA procedures provide that the projects and initiatives that are administered under the procedures need to be consistent with the goals and priorities of either Regional Partnerships or the *Stronger Regions, A Stronger Australia* statement, and that they must meet the majority of the RP program's selection criteria. The DOTARS procedures identify three categories of project that could be considered under SONA, as follows:

- projects that are of national or cross-regional significance;
- projects that are a whole-of-government response; or
- projects that respond to a significant event, such as a regional economic or social crisis, where relief is not available from existing relief programs.¹⁷

13 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 7.

14 DOTARS, *Regional Partnerships Guidelines*, www.regionalpartnerships.gov.au/guidelines.aspx, accessed 12 August 2005.

15 DOTARS, *Submission 14*, Attachment H, Procedures for Strategic Opportunities Notional Allocation (SONA), p. 1.

16 DOTARS, *Submission 14*, Attachment H, Procedures for SONA, p. 1.

17 DOTARS, *Submission 14*, Attachment H, Procedures for SONA, p. 1.

2.19 The document also states that SONA procedures may address program restraints of a more administrative nature, and the following examples are given:

Where funding for a high priority project would significantly exceed the relevant ACC's notional allocation and approval cannot be delayed until sufficient RP funding becomes available; or

Where a decision not to support a project is reversed following formal review and additional funding flexibility is required; or

Where a project or initiative would require the waiver of some specific part of the guidelines or eligibility criteria in order to be funded (eg the waiver that enabled normally ineligible proponents, Australia Post and Centrelink, to participate in Rural Transaction Centres).¹⁸

2.20 The SONA procedures appear to have been applied to nine projects in the 18 months to 31 December 2004. Six of those projects were approved for funding, as follows:

- Christmas Island Mobile Upgrade, Christmas Is. - \$2.750 million
- Crocfest, Commonwealth Department of Health and Ageing - \$158,400
- Primary Energy Pty Ltd, Gunnedah, NSW - \$1.210 million
- National Centre of Science, Information and Communication Technology, and Mathematics for Rural and Regional Australia (SiMERR), University of New England, Armidale, NSW - \$4.950 million
- Slim Dusty Foundation Ltd, Kempsey, NSW – 2 grants of \$550,000
- Sugar Industry Reform Package, national - \$12.734 million.

2.21 Three projects were rejected, namely, Regional Australia on Board (West Melbourne), Wholesale Regional Banking Model Development (Kingaroy, Qld) and the CISCES (Chain of Intermodal Shared Services on the Eastern Seaboard) Consortium, that was proposed by the Wagga Wagga City Council. The reason given for rejecting the West Melbourne proposal was given as, 'Poor value for money for program funds. RP is not the most appropriate funding source for this activity'.¹⁹ The reason for rejecting the regional banking proposal was, 'Suitable partner funding and/or community support not demonstrated. Sustainability and/or wider community benefit of outcomes not demonstrated'.²⁰ The CISCES proposal, which aimed to create an efficient freight system across eastern Australia, was rejected on the grounds that, 'Sustainability and/or wider community benefit of outcomes not demonstrated'.²¹

18 DOTARS, *Submission 14*, Attachment H, Procedures for SONA, p. 1.

19 DOTARS, *Senate Finance and Public Administration References Committee requested information on Regional Partnerships projects* (hereafter Revised RPP Tables), not approved projects, received 11 May 2005, p. 4.

20 DOTARS, Revised RPP Tables, received 11 May 2005.

21 DOTARS, Revised RPP Tables, received 11 May 2005.

2.22 DOTARS informed the Committee that in the 2003-04 financial year \$20.872 million was committed to SONA. The major projects for which funds were committed in that year were the sugar industry reform package, SiMERR and the Christmas Island mobile upgrade. When the SONA procedures were produced in September 2003, \$3 million was allocated for 2003-04 for SONA,²² suggesting that the government did not expect that SONA would be used as extensively as it was. The actual commitment of funds under SONA in 2003-04 suggests that the allocation was indeed 'notional'.

2.23 One of the RP program's predecessor programs, the Regional Assistance Program (RAP), also included provisions for grants for projects of national significance. The Australian National Audit Office (ANAO) conducted a performance audit on the administration of the RAP, including the Projects of National Assistance elements of the program, in 2002.²³ DOTARS informed the Committee that:

SONA was modelled to satisfy the principles set for the Regional Assistance Program Projects of National Significance.

The Australian National Audit Office (ANAO) *Report on the Regional Assistance Programme* agreed to the concept of the Projects of National Assistance elements of that programme and made a number of observations regarding consistent decision making and public accountability, in particular that 'the assessment process should be sufficiently rigorous to provide reasonable assurance that the projects selected are consistent with the guiding principles of RAP'.²⁴

2.24 DOTARS stated that the projects that had been administered under the SONA procedures of RP did not meet the usual eligibility criteria. DOTARS also stated that only three of the eligibility criteria had not been fully met. The relevant criteria were the provision of funds to other government departments, the use of a grant to produce a prospectus and the lack of planning approval for a project.

2.25 Dr Gary Dolman, Assistant Secretary of DOTARS Regional Communities Branch, informed the Committee that the Slim Dusty project in Kempsey, NSW, did not have full planning approval when it was approved, but that the RP guidelines had been amended since then so that the project would now be eligible for approval under the normal arrangements for RP projects.²⁵ The Committee finds this explanation unsatisfactory. The fact that the guidelines were later amended does not excuse the fact that this project was approved without meeting the guidelines. Applications must be assessed against the guidelines in place at the time to avoid making a mockery of established processes.

22 DOTARS, *Committee Hansard*, 10 February 2005, p. 47.

23 ANAO, *Regional Assistance Programme: Department of Transport and Regional Services*, Audit Report No. 48, 2001-02, Performance Audit, 10 May 2002.

24 DOTARS, *Submission 14*, p. 15.

25 DOTARS, *Committee Hansard*, 10 February 2005, p. 54.

2.26 It is interesting that the two grants to the Slim Dusty project that were administered under the SONA procedures were approved on 25 January 2004 and 21 June 2004. A project for the dredging of Tumbi Creek in New South Wales was approved on 24 June 2004, having been administered under the normal RP arrangements, despite the lack of the appropriate licences. The administration of the grants for the dredging of Tumbi Creek is described in detail in Chapter 5.

2.27 Another RP grant that was processed under the SONA procedures is a \$1.2 million grant to Primary Energy Pty Ltd for the 'grains to ethanol' project. That project also had to be administered under SONA because it did not meet the RP eligibility guidelines. The grant was in fact approved for planning purposes and for the production of a prospectus, contrary to the guidelines.²⁶ The Primary Energy grant is discussed in more detail in Chapter 7. A grant to the University of New England for the SiMERR project also was administered under SONA, not only because it was of national or cross-regional significance, but also because it may have breached the partnership criteria in as much as the hub centres in the other States and Territories (partners in the project) were not confirmed at the time the grant was processed.²⁷ This grant is also discussed in Chapter 8.

Publication of the SONA procedures

2.28 The SONA procedures were first produced in September 2003, some weeks after the RP program was established, and were revised in March 2004.²⁸ Unlike the RP guidelines, the procedures were not published widely but were included only in the Internal Procedures Manual. In effect, until the SONA procedures were tabled in the House of Representatives in early December 2004, in response to intense scrutiny by the Opposition, the only persons with access to them were DOTARS employees in the relevant area and (potentially) employees and members of the Area Consultative Committees. The procedures apparently were not known to those who might have made applications for grants and, more importantly, were not known to parliamentarians whose role it is to scrutinise government expenditure. The SONA procedures were provided to the Committee in DOTARS' submission (attachment H).

2.29 It became evident during the course of the inquiry that many ACC chairs and executive officers were still unaware of the existence of the SONA procedures.²⁹ Four ACC executive officers (EOs) told the Committee they were aware SONA existed

26 Dr Dolman, *Committee Hansard*, 12 August 2005, p. 59.

27 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 69.

28 Ms Riggs, *Committee Hansard*, 10 February 2005, p. 92.

29 See Mr Hale, Chairman, Central Coast ACC, *Committee Hansard*, 24 February 2005, p. 67; Mr Robert, Chairman, Far North Queensland ACC, *Committee Hansard*, 13 April 2005, p. 131; Mr Rowell, Chairman and Ms Thomas, Executive Officer (EO), ACC Tasmania, *Committee Hansard*, 30 June 2005, pp 41-42; Mr Haerewa, Chair, Kimberley ACC, *Committee Hansard*, 15 July 2005, p. 85; Mr Vukelic, Chairman, South West ACC, *Committee Hansard*, 18 July 2005, p. 53.

because Ms Riggs, DOTARS Executive Director, Regional Services, had mentioned it at an ACC EO's conference, but none of them had ever seen the procedures.³⁰

Administration of SONA

2.30 DOTARS submitted that projects administered under the SONA procedures are 'assessed in the normal way, including against the Regional Partnerships' assessment criteria of clear outcome, partnership, benefit to the community and sustainability'.³¹

2.31 Despite evidence from DOTARS to the contrary,³² it is clear that ministers' offices were involved in decisions to apply the SONA procedures to certain projects. DOTARS' submission states that ministers have not directed or suggested to departmental employees that the procedures be applied to an application.³³ However, as described in the Primary Energy case study in Chapter 7 of this report, the department was subject to pressure from Minister Anderson's office and a strong request from another minister that the project be funded. It is obvious that DOTARS had no option but to use the SONA procedures to give effect to that request.

Role of the minister

2.32 The RP program is one of many discretionary grants programs administered by the Commonwealth Government. A consequence of the discretionary nature of the program is explained in the guidelines published by DOTARS, as follows:

Regional Partnerships is a discretionary programme. The funding of projects, through Regional Partnerships, is at the discretion of the Federal Minister for Transport and Regional Services or the Federal Minister for Regional Services, Territories and Local Government, therefore meeting the assessment criteria does not guarantee funding.³⁴

2.33 A corollary to this is that the ministers may approve projects that do not necessarily meet the guidelines or that they may vary the amount of the grant. DOTARS informed the Committee that in relation to 17 or three per cent of the approximately 600 applications processed by the department from 1 July 2003 to 31 December 2004, the minister did not follow the department's recommendation. Of the 17, the minister approved 11 projects that the department advised should not be

30 Ms Thomson, EO, New England North West ACC, *Committee Hansard*, 29 June 2005, p. 72; Mr Simpkins, EO, Pilbara ACC, *Committee Hansard*, 14 July 2005, p. 104, Mr Durant, EO, Kimberley ACC, *Committee Hansard*, 15 July 2005, pp 85-87; Mr Hodgson, Executive Director, South West ACC, *Committee Hansard*, 18 July 2005, p. 53.

31 DOTARS, *Submission 14*, p. 15.

32 DOTARS, *Submission 14*, p. 16; *Committee Hansard*, 12 February 2005, p. 38.

33 DOTARS, *Submission 14*, p. 38.

34 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 6.

approved, rejected three that the department considered should be approved and in three cases the minister varied the amount of the grant from the department's advice.³⁵

2.34 The Committee requested DOTARS to identify those projects on which the minister's decision deviated from the department's recommendation, but departmental witnesses refused to provide this information.³⁶

2.35 The discretionary nature of RPP funding decisions, combined with this refusal to disclose details of the minister's decisions, leaves the RP program susceptible to perceptions of bias. Submissions to the inquiry suggested that such perceptions could be overcome by appointing a board or commission to undertake RPP funding decisions.

2.36 Mr Jon Stanhope MLA, ACT Chief Minister, submitted:

Given the accountability of Ministers, it is not unreasonable for Ministers to make the final decisions on funding projects. However, the Regional Partnerships program's broad guidelines allows it the flexibility to support a wide range of projects under its banner. In this case, the rationale for approving particular projects in particular locations may not be as clear as in programs with more tightly defined objective and guidelines.

To overcome any perception of bias in supporting projects, the Australian Government could consider moving the responsibility for approving or rejecting projects to a government appointed board with members who had relevant qualifications.³⁷

2.37 Mr Stanhope suggested that the approach used by the former Networking the Nation program would provide a suitable model for RPP. Mr Peter Andren MP suggested that a grants commission process similar to that used to allocate local government grants would be a suitable approach.³⁸

Expenditure

2.38 The Commonwealth Government spent \$86.922 million on the RP program in 2004-05, and has appropriated \$111.625 million for the program in 2005-06. It is estimated that a further \$250 million will be allocated to the program from 2006-07 to 2008-09.³⁹ Including the \$78.457 million expended on RPP in 2003-04,⁴⁰ the total amount allocated to the program exceeds \$500 million.

35 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 105.

36 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 105.

37 Mr Stanhope MLA, ACT Chief Minister, *Submission 38*, p. 2.

38 Mr Andren MP, *Submission 27*, p. 4.

39 DOTARS, *Portfolio Budget Statement 2005-06*, Table 3.2.2.

40 DOTARS, *Annual Report 2003-04*, Table 5.1, p. 103.

2.39 In the period 1 July 2003 to 31 December 2004, the minister approved funding for 504 projects, to the value of \$123,656,940.⁴¹ The minister also rejected 150 applications for funding in that period.⁴² The amount of grants approved for projects ranged from \$2,754 for replacement lighting for tennis courts at Brushgrove, New South Wales, to \$12.734 million for 'transitional support for the sugar industry and consequently to sugar dependent communities'.⁴³

Election commitments

2.40 Not all the funds allocated for the RP program in 2005-06 and future years will be expended on new RP projects or on projects now in the process of assessment. A significant number of election promises were made that will likely be met from the program funds. DOTARS submitted a list of these promises and their expected cost. There are six 'icon' projects, for which \$27.5 million has been promised, and 50 other projects.⁴⁴ The cost of the election commitments likely to be funded through RP amounted to approximately \$66 million, ranging from a grant of \$5,000 for the Macedon Football Club to upgrade its change rooms to \$15 million for a Rural Medical Infrastructure Fund.

2.41 Proponents of some of the projects in the list may have been in the process of applying for grants and may have met the guidelines for receiving a grant. However, apparently there is no need for any of the projects identified as election promises to address the RP guidelines in order to receive a grant from the program. DOTARS informed the Committee that instead of the normal application process, the department would seek information from each of the proponents to enable it to make an assessment of risk to the Commonwealth. Ms Riggs stated that:

We will then formally put an advice to the minister or parliamentary secretary in respect of each of these projects. That might, for example, say that there might be some conditions on the funding, and only then would we seek to enter into a funding agreement which would convert those commitments into actual grants.⁴⁵

This demonstrates that the process of funding election commitments from RPP was neither transparent nor rigorous. Some effects of election commitments bypassing the RP guidelines and assessment processes are discussed below in relation to commitments made in Tasmania.

41 DOTARS, Revised RPP tables, received 11 May 2005, p. 45.

42 DOTARS, *Committee Hansard*, 2 February 2005, p. 38.

43 DOTARS, Revised RPP tables, received 11 May 2005, pp 8, 44.

44 DOTARS, *Election Commitments 2004 – Likely to use Regional Partnerships Programme as Mechanism: prepared for Area Consultative Committees as at 7/1/2005*, tabled 10 February 2005.

45 Ms Riggs, *Committee Hansard*, 10 February 2005, p. 56.

Effect of RP election commitments in Tasmania

2.42 A total of \$1.535 million in election commitments to be funded under RPP were made in the electorate of Bass in Tasmania, suggesting that the seat was targeted by the government at the 2004 election. Projects included \$600,000 for economic development initiatives in Launceston and Northern Tasmania, \$150,000 for a planning strategy for the town of Bridport, \$250,000 for bicycle tracks in Launceston and \$250,000 to develop a complex in Georgetown to house the Bass and Flinders replica ship, 'The Norfolk'.⁴⁶ A total of \$2.765 million of election commitments to be funded by RPP in Tasmania were made during the 2004 election period.⁴⁷

2.43 In his submission to the inquiry, the Hon Paul Lennon MHA, Premier of Tasmania, raised a number of concerns about the effects of the federal government's election commitments to be funded from the RP program. The impacts included election commitment projects duplicating state programs relating to recreational infrastructure and matched funding requirements being placed on the state government.⁴⁸ The Premier commented as follows:

The funding will be provided on the proviso that the State Government matches the funding. This raises a number of issues, in particular:

- (a) The capacity to deliver additional projects;
- (b) "Matched funding" requirements being imposed on the State Government;
- (c) Duplication between the program's projects, and those that are State funded; and
- (d) The consideration given to the local context when deciding funding.⁴⁹

2.44 The Premier's submission also commented on the election promises bypassing the program's established processes and undermining the consultation requirements integral to RPP:

The projects promised during the election have involved minimal consultation with TEAC [ACC Tasmania] and the State, and undermine the systematic processes of the partnership program that was established by the Commonwealth.⁵⁰

46 DOTARS, *Election Commitments 2004 – Likely to use Regional Partnerships Programme as Mechanism: prepared for Area Consultative Committees as at 7/1/2005*, tabled 10 February 2005.

47 DOTARS, *Election Commitments 2004 – Likely to use Regional Partnerships Programme as Mechanism: prepared for Area Consultative Committees as at 7/1/2005*, tabled 10 February 2005.

48 The Hon Paul Lennon MHA, Premier of Tasmania, *Submission 37*, pp 1-2.

49 The Hon Paul Lennon MHA, Premier of Tasmania, *Submission 37*, p. 1.

50 The Hon Paul Lennon MHA, Premier of Tasmania, *Submission 37*, p. 2.

2.45 The Committee received similar evidence from ACC Tasmania that election commitments raised questions among proponents who had followed the proper process:

The "election promises" where projects have received funding, that were not known to the ACC, or where further development was required, undermines the voluntary commitment of the ACC Regional Directors...The Regional Directors are the face of the ACC in regional communities, therefore they are approached by community members...[who ask] "why projects were funded" when they were informed of the correct procedures and process which had to be adhered to for funding under Regional Partnerships.⁵¹

2.46 The Committee considers that the government should take existing state and local government programs and priorities into account and consult with local ACCs before making election commitments.

Distribution of grants

2.47 DOTARS submitted data up until 31 December 2004 showing the distribution of grants by political party and location of electorate.⁵² The data show that overall there was little difference in the proportion of applications approved among electorates held by different parties. There were, however, significant differences in the numbers of applications made from electorates held by Government, Opposition and Independent members and in the funds provided.

2.48 In the 82 electorates then held by the Government, 795 applications were made resulting in \$65.2 million of grants. In the 64 electorates held by the Opposition, 209 applications were made resulting in \$18.5 million of approved grants. In the 4 seats then held by Independents/minor parties, 60 applications were made receiving \$14.9 million in approved grants.

2.49 Differences in the number of grants and funding received were also apparent across the locations of electorates. In the 38 metropolitan electorates held by the Government parties 58 applications were made. In the 50 metropolitan electorates held by the Opposition, 96 applications were made. The Government-held electorates received a total of \$6.9 million while the Opposition-held electorates received \$4.5 million.⁵³

51 ACC Tasmania (formerly Tasmanian Employment Advisory Committee), *Submission 30*, p. 6.

52 DOTARS, *Equity of Funding – Regional Partnerships programme*, in answers to questions on notice, received 11 May 2005. DOTARS noted that the analysis was based on the electorate at the time of application and related to electorates held prior to the 2004 election. Location of electorate was classified using the AEC's electorate demographic rating system.

53 Includes both 'Inner Metropolitan' and 'Outer Metropolitan' electorates.

2.50 In provincial electorates the Opposition held eight seats, from which 67 applications were made, resulting in grants valued at \$7.5 million. From the eight seats held by the Government parties there were 44 applications, which led to \$3.2 million in grants.

2.51 In the rural electorates the differences were more marked. In rural locations, 46 applications were made from the six seats held by the Opposition, and those electorates received \$6.5 million in grants. There were 693 applications from the 36 electorates held by the Government parties, and \$55.2 million in grants. The three seats in this category that were held by Independents received \$14.6 million from 54 applications (this amount presumably included the \$5.5 million made to the Buchanan Park 'icon' project.)

2.52 While there is no 'average' electorate, and hence no reason why there necessarily should be equity in the distribution of grants among electorates, the average amount in grants provided to each electorate may be instructive. When considering these figures, it should be remembered that the RP program is intended to benefit the regions. It should also be remembered that the figures are for grants approved, not for funds committed.

2.53 In the metropolitan areas, each electorate held by the Government parties received an average of \$180,614 while each electorate held by the Opposition received \$90,999. In provincial areas, Government-held electorates received on average \$395,278, while Opposition-held electorates received \$938,828.

2.54 For electorates in rural locations, the average amount of RP funding approved for Government-held electorates was \$1.5 million and was \$1.1 million for seats held by the Opposition. The three electorates held by Independents received on average \$4.9 million. These electorates include New England which was described as a 'National Party target seat'.⁵⁴ Issues surrounding some significant grants made to projects in that electorate are discussed in Chapter 8.

2.55 In summary, the overall number of grants approved for Government-held seats was significantly higher than for Opposition-held seats. The electorates that on average received most funding from the RP program were seats held by Independent members.

Distribution of SONA grants

2.56 As noted above, six projects were approved using the SONA procedures in the 18 months to 31 December 2004. One of these projects, the Christmas Island Mobile Upgrade for \$2.75 million, was located in an Opposition-held electorate. Two grants totalling \$1.76 million were for projects located in National Party electorates – the Slim Dusty Foundation and Primary Energy grants. The grant to the University of

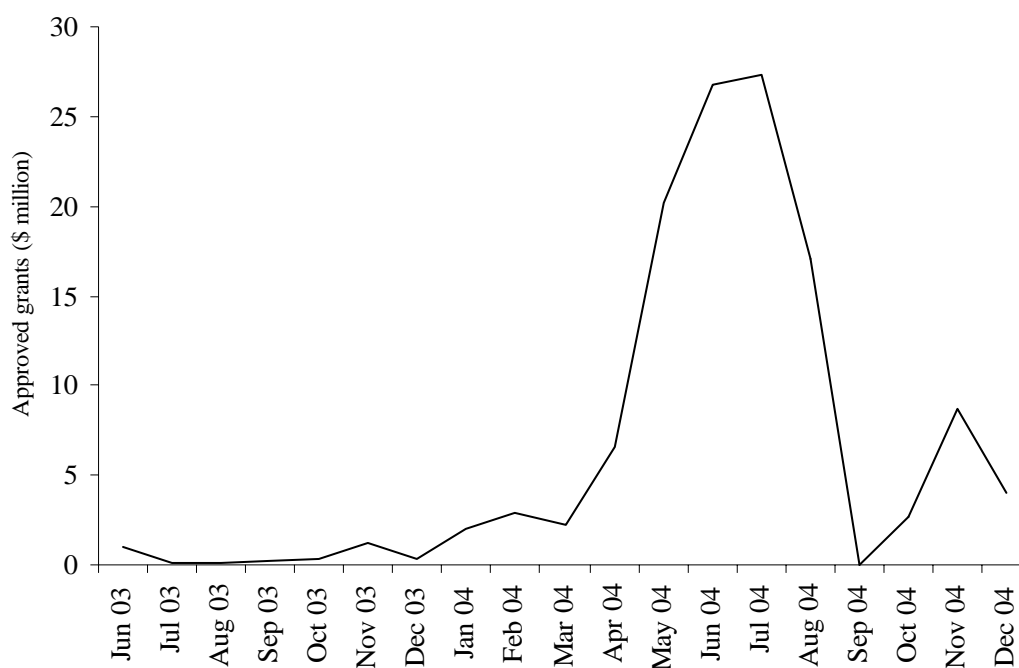
54 Mr Katter MP, *Committee Hansard*, 23 June 2005, pp 4, 6.

New England SiMERR National Centre for \$4.95 million was to an Independent electorate. The remaining two projects approved using SONA, Crocfeast and the Sugar Industry Reform Package, were both described as national projects and related to a number of electorates.

Timing of grant approvals

2.57 The number of project applications and quantity of grants approved was not uniformly spread throughout the period to December 2004. As shown in Chart 1, there was a significant increase in grant approvals in the months leading up to the 2004 federal election. In June, July and August 2004, the three months preceding the announcement of the election, \$71.1 million worth of grants were approved. In other words, *over half* (58 per cent) of the total funding approved for the entire period from the commencement of the program to 31 December 2004 was approved in the three months preceding the election announcement. Of the funding approved in those three months, \$22.1 million (31 per cent) was for projects in marginal electorates.

Chart 1: RPP grant approvals⁵⁵



55 Data from DOTARS, Revised RPP tables, received 11 May 2005. Data for June 2003 relate to projects approved under the Namoi Valley Structural Adjustment package but funded from RPP appropriation.

Administrative processes

2.58 Project proponents may lodge their applications with DOTARS. Depending on the medium used, for example, electronic or paper, the application will go either to the national office or a regional office. If an application is lodged with DOTARS national office it is usually assigned to a regional office for processing. The regional office refers the application to the relevant Area Consultative Committee (ACC) for review.⁵⁶ The role of the ACCs is described in more detail in Chapter 3.

2.59 Proponents are advised, for example on the RP website, that before making an application they should contact the local ACC which can assist them in developing their application, and with lodging it with DOTARS. The ACC is required to consider the application, among other things, against priorities in the relevant Strategic Regional Plan and against RPP's objectives and criteria. The ACC is required to rate the project on a scale of 1 to 4, with 4 being the highest rating.

2.60 However, the Committee received evidence, discussed in later chapters, that in reality the processes described above are not always followed. The Committee became aware of a number of applications that were not forwarded to the ACCs for review, or where ACCs were given insufficient time to consider and rate applications. Overall, the Committee is not in a position to ascertain how often ACCs are excluded completely from the assessment process or their role is minimised. This is unsatisfactory. The Committee was impressed by the overwhelming majority of ACCs that it met and considers that the ACCs provide an important reality check on project applications.

2.61 Applicants are contacted by the regional office to provide them with preliminary advice, for example, to seek additional information, or to inform them that their application is being assessed or if it is ineligible.⁵⁷ If the project is eligible for a grant and the application has been completed properly, it is assessed in a regional office against a detailed checklist contained in the RP Internal Procedures Manual. The application then goes through a 'quality assurance' check at the national office, which is also responsible for the final submission to the minister.

Announcement

2.62 After an application receives ministerial approval, the grant is announced. The Internal Procedures Manual states that it is the minister's preference for local (i.e. government) MPs or senators to have the opportunity to advise successful applicants on behalf of the government. They are also given the opportunity to make arrangements for the announcement. Two or three days later the minister's office

56 See DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, pp 58, 91-92.

57 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, p. 59.

advises the successful applicant and the relevant ACC. Non-government local members are also informed.⁵⁸

2.63 A possible consequence of the early notification to government parliamentarians is stated in DOTARS' procedural manual:

This means that DOTARS may find that applicants and ACCs are aware that a project is successful before staff in either National Office or Regional Office have been notified. This situation should be managed by DOTARS staff tactfully.⁵⁹

2.64 When DOTARS becomes aware of the announcement, summary information about the recipient, the amount of the grant, the purpose of the grant and the title of the relevant ACC are placed on the RP website.

2.65 For unsuccessful projects the relevant DOTARS regional office notifies the applicant in writing within two weeks of the ministerial announcement. Unsuccessful applicants may appeal to the department for a review of the decision. Reviews are conducted by officers other than those who originally assessed the application. A final decision on a review rests with the minister.⁶⁰

2.66 The Committee wished to inquire into the timing of grant announcements in comparison to the dates approvals were made. DOTARS, however, declined to provide information about the date of announcements, despite the Committee requesting this information in late 2004. As mentioned above, DOTARS asserted that announcements are a matter for the minister, and DOTARS may not necessarily know when announcements are made.⁶¹

Official openings

2.67 The RP Internal Procedures Manual includes advice about official openings or launches. The decision maker or a representative of the decision maker is invited. Representatives may be the local member (if a government member), a 'patron' senator or, if those persons are not able to attend, a representative from the ACC or from DOTARS.⁶² No mention is made in the manual of invitations to non-government parliamentarians. This was a matter of concern to the Independent Member for New England in relation to his not being invited to the opening of an aged care facility in his electorate. His concern is addressed in Chapter 8 of the report.

58 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, p. 93.

59 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, p. 93.

60 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, pp 96-98.

61 DOTARS, *Committee Hansard*, 10 February 2005, p. 10, 67.

62 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, p. 93.

Due diligence

2.68 The due diligence that is conducted at least in relation to an application for larger RP grants seems to take account of two factors—the viability of the proponent and the viability of the project. Dr Dolman, when commenting on the Tumbi Creek project, defined due diligence as meaning whether or not the proponent is likely to be facing financial difficulties and whether the project is viable.⁶³ This is a much weaker definition than the statement in the RP guidelines that 'Applications will be subject to substantially higher levels of scrutiny where it is [sic]...seeking more than \$250,000 from Regional Partnerships'.⁶⁴

2.69 There was discussion during the inquiry regarding the appropriate level of due diligence that is required, and also regarding when in the assessment process due diligence should be undertaken. The executive officer of the Far North Queensland Area Consultative Committee (FNQACC), when commenting on investigations into the viability of the A2 Dairy Marketers proposal, and responding to a question as to whose role it is to undertake due diligence, stated that:

Let us be very clear about our understanding of what due diligence is ... Our [FNQACC's] thing is to look at it [a project] and make a balanced recommendation on what we believe. We certainly do not have the resources..., with a staff of three, to be doing due diligence...but it is within our scope to make some comment about what we see.⁶⁵

This matter is further discussed in Chapter 6.

2.70 Despite some confusion about due diligence responsibilities between ACCs and DOTARS, the RP Internal Procedures Manual states that responsibility for due diligence rests with the department.⁶⁶ Due diligence seems to be conducted in the main after the approval process, and for larger grants is usually outsourced to external consultants. The RP Internal Procedures Manual advises that a standard procedure before signing a funding agreement is the undertaking of risk assessment processes. The amount of funding being sought, the project type and applicant type determines the extent of the assessment. The following extract is taken from the manual:

- Pre-assessment – Basic check on an applicant (In house)
- Level 1 – Credentials check on an applicant (Lawpoint website)
- Level 2 – Assessment of applicant's financial risk status (External consultant)

63 Dr Dolman, *Committee Hansard*, 24 February 2005, p. 105.

64 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 9.

65 Mr Vieira, *Committee Hansard*, 13 April 2005, p. 100.

66 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, pp 23, 56.

- Level 3 – Assessment of project's commercial risk/suitability (External consultant)
- Private sector applicants are typically subject to a higher level of risk assessment.⁶⁷

2.71 The extent of due diligence then depends on the proponent, and the size and nature of the project. The Committee was told by DOTARS witnesses, for example, that local government councils as proponents are generally assessed as being low risk.⁶⁸ Ms Riggs commented that:

Prima facie, for example, one might take the view that a council is not going to be allowed to go broke by its state government, whereas that would be unlikely be true of a private sector organisation. So you might allow for a larger project or a larger amount of grant funding to go to a council than you would allow to a private sector organisation without doing a very intensive due diligence on the project that is in question.⁶⁹

2.72 The Committee was hindered in its ability to examine due diligence procedures because the thresholds for determining the level of due diligence had been removed from the version of the RP Internal Procedures Manual provided to the Committee by DOTARS. The following explanation for the absence of the *Assessing Risk and Viability* section was provided within the manual:

This section is currently under major review and therefore has been removed. If advice is necessary contact the Applications, Approvals and Contracts section.⁷⁰

2.73 In contrast, the thresholds for the level of due diligence required in relation to SRP projects were clearly specified in DOTARS' submission:

- A Lawpoint check for applicants seeking funding of approx <\$50,000
- A company viability check for applicants seeking funding of approx \$50,000 - \$500,000
- A company and project viability check for projects over \$500,000.⁷¹

2.74 The Committee is disturbed that procedures fundamentally important to determine the viability of projects and the risk to the Commonwealth were left in abeyance without appropriate interim measures. The Committee considers that guidance on due diligence checks should be finalised as a matter of urgency.

67 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, p. 125.

68 Dr Dolman, *Committee Hansard*, 24 February 2005, p. 105.

69 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 74.

70 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, p. 67.

71 DOTARS, *Submission 14*, p. 9.

Funding agreements

2.75 Grant recipients are required to enter into a funding agreement with the Commonwealth.⁷² The form of the agreement may be found on the Regional Partnerships website.⁷³

2.76 DOTARS, through its regional offices, negotiates with the recipient regarding the budget, outcomes and milestones information that are to be included in the agreement. The first grant payment is not made until all the conditions that have been imposed on the approval of the grant have been met, and further payments are not made until the recipient meets the milestones specified in the agreement. As a result, the announced grant may not be funded, as in the case of A2 Dairy Marketers, for example, which went into receivership before the funding agreement was concluded.⁷⁴ In contrast, the first payment of \$426,800 to Primary Energy Pty Ltd was made conditional on merely signing the funding agreement, and therefore no progress was required towards actual project outcomes.⁷⁵

2.77 In signing the agreement, recipients acknowledge that the government may be obliged to disclose information contained in it.⁷⁶

2.78 The Committee received copies of a number of agreements relating to grants that it wished to consider in depth. The agreements were detailed, and included, among other things, provisions for the management of funds, record keeping and reporting. The Commonwealth's agreement in relation to The Cove Caravan Park, for example, included among its provisions 'activity/ milestone descriptions' and 'expected reporting dates' against those milestones. An example from the agreement reads as follows:

Activity/milestone description	Expected reporting date
(iii) Kerbing/sealing roads and footpaths	30 April 2005

2.79 The agreements state that recipients must provide DOTARS with reports on progress at specified times. Post activity reports that include audited statements of receipts and expenditure are also required.

72 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, p. 101.

73 DOTARS, Regional Partnerships standardised funding agreement, www.regionalpartnerships.gov.au/sfa.aspx, accessed 15 September 2005.

74 Ms Riggs, correspondence, 8 July 2005, p. 3. For a detailed discussion of the A2DM project, see Chapter 6.

75 *Regional Partnerships Funding Agreement between DOTARS and Primary Energy Pty Ltd*, tabled 12 August 2005, item 2.5, p. 33. For a detailed discussion of the grant to Primary Energy Pty Ltd, see Chapter 7.

76 Ms Riggs, correspondence, 8 July 2005, p. 3; DOTARS, *Submission 14*, Attachment G, Operational Funding Contract, p. 14.

2.80 An interesting inclusion in the agreements is a standard provision, titled *Acknowledgement and Publicity*, which requires the recipient to acknowledge the financial and other support received. The agreement stipulates that any publicity should use the words, 'This project is supported by funding from the Australian Government under its Regional Partnerships programme'.⁷⁷ The provision also requires the grant recipient to clear all publicity, announcements and media releases through a departmental contact officer before they are released to the media.⁷⁸

TRAX

2.81 A software system known as TRAX is integral to the administration of the RP program. DOTARS submitted copies of diagrams from its TRAX training manual that show that every step in the processing of a RP grant, from the lodging of an application to the acquittal of funds, is recorded in the system.⁷⁹ DOTARS claimed that the use of TRAX addresses a part of a recommendation made by this Committee in its report on a Dairy RAP project, namely, that DOTARS 'adopt...an improved documentary record of assessment procedures'.⁸⁰

2.82 The department bought the basic TRAX product in December 2002. It began operating in July 2003 and, by 30 June 2005, DOTARS had expended \$3.8 million developing and refining the system.⁸¹ The costs included two trips to Canada by senior departmental staff to meet with the software providers to discuss issues and problems associated with the development of TRAX.⁸²

2.83 One witness, the executive officer of the Kimberley ACC, claimed that TRAX is 'difficult, time-consuming, customer unfriendly and it should not be released until all the bugs have been removed'.⁸³ Ms Riggs agreed that when DOTARS first released the application 'front end' of TRAX it was very user unfriendly, quite problematic and had some limitations.⁸⁴ She informed the Committee that because some people had difficulty with the front end of the system DOTARS had implemented other means for the submission of applications, for example hard copy, that ensured that DOTARS staff rather than ACC staff are responsible for data entry. Ms Riggs also observed that the 'front end' is only part of TRAX, and that most of the system supports the internal

77 See, for example, *Regional Partnerships Funding Agreement between DOTARS and Primary Energy Pty Ltd*, tabled 12 August 2005, clause 11.1, p. 36.

78 See, for example, *Regional Partnerships Funding Agreement between DOTARS and Primary Energy Pty Ltd*, tabled 12 August 2005, clause 11.3, p. 36.

79 DOTARS, *Submission 14*, pp 11-13.

80 DOTARS, *Submission 14*, Attachment J, Internal assessment of DOTARS regional programme procedures against ANAO Better Practice Guide, audit and evaluation recommendations, p. 8.

81 Ms Riggs, *Committee Hansard*, 12 August 2005, pp 7-8.

82 Ms Riggs, *Committee Hansard*, 12 August 2005, pp 7-8.

83 Mr Durant, *Committee Hansard*, 15 July 2005, p. 96.

84 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 10.

processing functions of staff of the department.⁸⁵ Ms Riggs claimed that the department had made substantial improvements to the system since July 2003 and that it 'provides appropriate elements of support'.⁸⁶

2.84 Reports on RP grants which were generated from TRAX and that were initially submitted to the Committee in January 2005 were wrong in some important details. Incorrect information was provided to the Committee about when some applications had been submitted and approved, hampering the Committee's inquiry. DOTARS had then to reconcile the data held in TRAX with paper records held in its regional offices,⁸⁷ with the result that the Committee did not receive reliable data on some important projects until May 2005.

2.85 The Committee is aware that mistakes can be made when people are entering data into electronic databases and spreadsheets, but it was particularly unfortunate that in this case those mistakes adversely affected the conduct of the inquiry. Furthermore, it is not clear what internal quality control mechanisms are in place to ensure the accuracy of TRAX data in the future.

Audit and Review

Audit reports and reviews

2.86 In its submission DOTARS listed five external reviews or audits of three precursor programs—Regional Assistance, Dairy Regional Assistance and Telecommunications Grants (which included Rural Transaction Centres) programs—and three internal reviews of the RP and SR programs. Copies of the executive summaries of those reviews were submitted to the Committee. The department stated that it had incorporated lessons from those reviews into the RP program 'to ensure that it operates in line with best practice programme administration'.⁸⁸ This Committee's report, *A funding matter under the Dairy Regional Assistance Program, June 2003*, was included among the external reviews.

2.87 DOTARS also provided an attachment to its submission which set out for the RP and SR programs the department's actions to meet the recommendations of the ANAO's *Better Practice Guide for the Administration of Grants* and the recommendations of the reviews and reports mentioned above.⁸⁹

2.88 As mentioned, DOTARS has conducted three internal reviews of the RP and SR programs. These reviews were as follows:

85 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 10.

86 Ms Riggs, *Committee Hansard*, 12 August 2005, pp 7, 9.

87 Mr Yuile, *Committee Hansard*, 10 February 2005, p. 3.

88 DOTARS, *Submission 14*, p. 20.

89 DOTARS, *Submission 14*, Attachment J, Internal assessment of DOTARS regional programme procedures against ANAO Better Practice Guide, audit and evaluation recommendations.

- KPMG (2004), *Findings and Recommendations on the Review of Regional Partnerships Programme*;
- KPMG (2004), *Review of Regional Office Delivery*; and
- KPMG (2004), *Review of the Sustainable Regions Programme Internal Audit*.

2.89 The department relied on the first of these reviews for its assessment that the RP program is delivering substantial benefits to communities across Australia, and for a measure of the effectiveness of expenditure under the program. The department claims that at least \$3 is contributed by state government, local government and the private sector for every program dollar, and that three jobs are generated for every \$50,000, with this rising to four jobs in the longer term.⁹⁰ The review also collected, among other things, data on the nature of the activities generated by RP funding and the allocation of funds by type of project.⁹¹

2.90 DOTARS informed the Committee that its evaluation strategy for both programs sets up processes to gather performance data on the impact of the programs against their stated objectives (and outcomes) and that the strategy is in three stages, as follows:

- Post-implementation review;
- Impacts of projects; and
- External evaluation.⁹²

2.91 The first stage of the post-implementation review of the SR program has been concluded and the second stage commenced. As part of the first stage evaluation of the RP program, an internal review of a selection of projects was conducted. The second part of stage one involved a client survey. That survey had been completed, but the report had not been produced, by 12 August 2005.⁹³ The second stage of the RP review is scheduled for 2006.⁹⁴ The external evaluation of the RP program is to begin in June 2006. The external review of the SR program is scheduled to report in late 2005-06.⁹⁵

2.92 While DOTARS provided evidence about the macro-level assessment of the SRP and RPP, the Committee notes that there is little evidence of evaluation of the outcomes of individual projects—evaluation of which is fundamental to any measure

90 DOTARS, *Submission 14*, p. 22.

91 DOTARS, *Submission 14*, Attachment K, Summary of the impacts and performance of a selection of DOTARS regional programs.

92 DOTARS, *Submission 14*, p. 21.

93 DOTARS, *Committee Hansard*, 12 August 2005, p. 14.

94 DOTARS, *Committee Hansard*, 12 August 2005, p. 13.

95 DOTARS, *Submission 14*, Attachment J, Internal assessment of DOTARS regional programme procedures against ANAO Better Practice Guide, audit and evaluation recommendations, p. 4.

of the success or otherwise of the programs. The Committee also notes the absence of a clear link between RP or SR funding and demonstrated regional development outcomes commensurate with the quantum of funding.

ANAO Best Practice Guide

2.93 As reported in the previous section, DOTARS submitted an attachment to its submission (Attachment J) in which the administrative processes adopted for the RP and SR programs were listed against the principles set down in the ANAO's *Better Practice Guide for the Administration of Grants, May 2002* (the Better Practice Guide). In general, DOTARS has addressed the principles, but there appear to be shortcomings, which are possibly outside the department's control. Under 'Grant Announcements' for example, the ANAO's recommendation is that grant offers should be made and unsuccessful applicants advised as soon as possible. DOTARS has asserted that announcements are made as soon as possible, but the timing of the announcements is a matter for the minister, and DOTARS may not necessarily know when announcements are made.⁹⁶ Additionally, although DOTARS has produced and promulgated guidelines for applicants in line with the ANAO principles, there is no mention of the SONA procedures in the guidelines or in Attachment J to DOTARS' submission.

2.94 The Better Practice Guide also states that the objectives of a program must be clearly documented and communicated to all stakeholders, as follows:

Grant programs should operate under clearly defined and documented operational objectives...Operational objectives for the program should include quantitative, qualitative and milestone information or be phrased in such a way that it is clear when these objectives have been achieved, Adequate information will then be available on which to base future decisions for continuing or concluding the program.⁹⁷

2.95 However, the RP program has four extremely broad objectives, which are as follows:

- Strengthening growth and opportunities
- Improving access to services
- Supporting planning
- Assisting in structural adjustment⁹⁸

2.96 The Committee does not accept DOTARS' claim that these objectives meet the ANAO Better Practice Guide's principle of defining operational program

96 DOTARS, *Committee Hansard*, 10 February 2005, p. 67.

97 ANAO, *Better Practice Guide for the Administration of Grants*, May 2002, p. 9.

98 DOTARS, *Submission 14*, Attachment J, Internal assessment of DOTARS regional programme procedures against ANAO Better Practice Guide, audit and evaluation recommendations, p. 3.

objectives.⁹⁹ The Committee considers it imperative that the RP program objectives be made specific to enable the meaningful evaluation of the program.

99 DOTARS, *Submission 14*, Attachment J, Internal assessment of DOTARS regional programme procedures against ANAO Better Practice Guide, audit and evaluation recommendations, p. 3.

Chapter 3

The Area Consultative Committees

3.1 As noted previously, 56 Area Consultative Committees (ACCs) contribute to the administration and implementation of the RPP. Given that ACCs have a central role in the program and are separate from, but financially linked to, the administering department, the Committee was concerned to investigate the role and operations of the ACCs in relation to the RP program.

3.2 The Committee received a wide range of evidence relating to the role, functions and operations of the ACCs. DOTARS' submission provided an overview, including documents setting out the detailed operating procedures for ACCs.¹ Nineteen ACCs provided written submissions to the inquiry and the Committee heard evidence from the chairs and executive officers of eight ACCs at public hearings. As discussed in Chapter 1, the Committee also requested and eventually received relevant minutes of meetings and recommendations from all ACCs.

Overview

3.3 DOTARS describes ACCs as 'apolitical, not-for-profit, community-based committees funded by the Australian Government under the *Regional Partnerships* programme'.² Each ACC is an incorporated or registered body under the relevant state or territory legislation. ACCs were first established as registered associations in 1995, under the Labor Government's Working Nation initiative.³

3.4 ACC chairs and members are volunteers drawn from the community, local business and local government.⁴ The Minister for Transport and Regional Services appoints the chair of each ACC for a two-year term.⁵ The remaining membership is the responsibility of the chair and members, under the terms of the articles or memorandum of association of the ACC.⁶ Each ACC employs a full-time executive officer.

3.5 DOTARS aims to convene a national conference for ACC executive officers once every nine months. In addition, DOTARS either sponsors or contributes to

1 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004 and Attachment G, Operational Funding Contract.

2 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, p. 5.

3 *Committee Hansard*, 2 February 2005, p. 74.

4 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, p. 5.

5 DOTARS, *Submission 14*, p. 14 and Attachment F, ACC Handbook June 2004, p. 9.

6 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 55.

several state based or half-state based gatherings of executive officers.⁷ Where feasible, a DOTARS staff member attends each ACC meeting.⁸

3.6 Together the 56 ACCs cover metropolitan, regional, rural and remote Australia.⁹ ACC boundaries are not aligned with electorate or local government boundaries, instead they were designed to reflect 'regional self-definition'.¹⁰ DOTARS witnesses explained, for example, that ACC boundaries may reflect natural labour markets or geographic borders.¹¹

Structure and operation of the ACCs

3.7 Evidence to the inquiry shows substantial variation in the structure and processes in place across ACCs. Some committees meet regularly, others conduct nearly all business via email. Some ACCs have set up sub-committees with specific roles and functions. Underlying these differences, all ACCs are required to adhere to certain procedures.

3.8 Several key documents set out the parameters for the structure, operations and corporate governance arrangements of all ACCs. These are:

- The ACC Handbook, including as an attachment the ACC Charter, Ministerial Statement of Priorities and ACC Work Principles;
- The ACC Operational Funding Contract with the Commonwealth;
- The ACC Strategic Regional Plan; and
- The ACC Business Plan.

3.9 The Regional Partnerships Procedures Manual is also available to ACCs.¹² These documents are available in full either in the evidence provided to this inquiry or from the individual ACC websites. A brief overview of the documents, as relevant to this inquiry, is provided below.

The ACC Handbook

3.10 The role and functions of ACCs are defined in the National Network of Area Consultative Committees Charter, appended to the ACC Handbook.¹³ The Charter sets out three core responsibilities for ACCs, which relate to facilitating change in their

7 *Committee Hansard*, 2 February 2005, p. 75.

8 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 5.

9 DOTARS, *Submission 14*, p. 14.

10 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 75.

11 *Committee Hansard*, 2 February 2005, p. 75.

12 *Committee Hansard*, 10 February 2005, p. 58.

13 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, Appendix A.

regions, forming the link between Government, business and the community and facilitating whole of government responses to opportunities in their communities.¹⁴ The Charter also includes a Ministerial Statement of Priorities for ACCs, which lists eight priority areas for regional development. This statement is designed to 'provide a nationally consistent direction for ACC strategies and activities'.¹⁵ The Charter also includes a statement of the work principles to be embedded in ACC operations. Amongst other things, these principles state the independence of the ACCs:

All activities will be conducted in a non-partisan manner and in such a way as to be beholden to no individual, group or organisation.¹⁶

3.11 The ACC Handbook sets out a range of corporate governance matters including the legislative basis and requirements of ACCs; the appointment and role of different ACC positions; conflict of interest; management of ACC operations including financial management, reporting requirements and administration; employer obligations; performance assessment and communication.

3.12 The guidelines on conflict of interest are clear. The handbook states:

Conflict of interest is one of the most important governance issues facing ACCs. As a recipient of Australian Government funds, it is essential that ACCs perform their function in a fair, non-biased, and politically neutral manner and such that there is no actual or perceived conflict of interest in the decisions taken by the ACC, on the part of a Chair, member or employee of the ACC [original emphasis].¹⁷

3.13 The handbook goes on to define conflict of interest and sets out DOTARS' expectations for handling conflict of interest. The Handbook also sets out DOTARS' expectations in relation to ACC involvement in the political process. Many ACCs, claimed in their submissions and documents provided to the inquiry, that conflict of interest procedures were rigorously applied to their operations.

Strategic Regional Plan and Business Plan

3.14 Each ACC is required to develop a three year strategic regional plan and to review the plan each financial year. ACCs are asked to consult with a range of stakeholders in developing the plan, which 'identifies strategies for addressing the key social, economic and environmental barriers to and [sic] taking advantage of local opportunities for regional development'.¹⁸ When assessing RPP applications, ACCs are asked to indicate whether project proposals are consistent with their strategic regional plan.

14 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, Appendix A, pp 40-41.

15 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, p. 5.

16 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, Appendix A, p. 43.

17 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, p. 13.

18 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, p. 6.

3.15 Each year ACCs are required to develop a business plan setting out their objectives and the activities through which they will implement their strategic regional plan during the financial year, including projected operational expenditure.¹⁹

Operational funding contract

3.16 Each ACC enters into a funding contact with the Commonwealth for annual operational funding. The contract sets out the agreed outcomes and terms and conditions for the ACC to receive operational funding.²⁰ In addition to specifying agreed ACC activities and operating arrangements, the funding contract sets out the ACCs' reporting arrangements to DOTARS. These reports include quarterly or half-yearly reports, an annual report, audited acquittal reports, quality assurance assessments and performance reports. In addition to their own quality assessments, every two years ACCs are required to contract an independent person or agency to conduct a quality assurance assessment.²¹

3.17 Overall, ACC operational funding in 2004-05 was \$17,249,183, with individual funding contracts ranging from \$234,032 to \$1,105,314.²² Ms Riggs noted that differences in the ACCs' operational funding relate to the different costs of running ACCs in different areas. Ms Riggs said:

We recognise that there are quite different cost pressures on the smaller coastal ACCs up and down the New South Wales coast than there are on the ACCs that have large geographic regions. It is a balancing act, of course, because often the employment costs may be higher nearer some of the capital cities, but the travel costs or some other form of costs may be lower. That balance in the relative shares of the cost make-up, in some pretty broad groupings, informs the basic budget for the ACCs.²³

3.18 Ms Riggs also noted that operational funding for ACCs comes from the same appropriation as RPP projects, therefore DOTARS needs to strike a balance between spending on the ACCs and 'putting money into communities'.²⁴

3.19 The ACC operational funding contract provides 'funding for the administration, including employing staff, to conduct the day-to-day operations and to support the ACC to achieve its outcomes under the Contract'.²⁵ DOTARS expects all ACCs to employ a full-time executive officer out of their operational funding and

19 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, p. 6.

20 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, p. 5.

21 DOTARS, *Submission 14*, Attachment G, Operational Funding Contract, p. 29.

22 DOTARS financial year contract list, 1 July 2004 to 30 June 2005, www.dotars.gov.au/dept/DOTARS_financial_year_contract_list.doc, accessed 29 August 2005.

23 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 16.

24 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 16.

25 DOTARS, *Submission 14*, Attachment G, Operational Funding Contract, p. 22.

other paid staff as required.²⁶ The Committee was informed that ACC executive officers' packages range from around \$85,000 to \$105,000 per annum. Ms Riggs said there were a range of reasons for the variation in remuneration, including the different sizes of the ACC regions, different staff management responsibilities of executive officers, differing levels of travel required and also a 'relative notion of performance'.²⁷

3.20 Some ACCs indicated that the operational funding provided does not adequately account for the different costs associated with operating ACCs in different areas. For example, executive officers from the Kimberley ACC and Pilbara ACC expressed the difficulties these ACCs experienced in attracting and retaining quality staff, in part due to their inability to offer competitive remuneration packages.²⁸

3.21 The Central Queensland ACC, in a submission to the inquiry, suggested a review of the ACC funding formula was required:

...the formula used to fund ACC (Administration) regions (population based formula) needs to be reviewed as soon as practicable. Maintaining equitable access to participation of the Regional Partnerships Programme will require as the competitiveness of the programme increases, higher levels of support.²⁹

Role and functions of the ACCs

3.22 DOTARS' submission notes that ACCs provide a regional network for the promotion and implementation of a range of government programs.³⁰ In relation to RPP, ACCs have two key roles—providing information and assisting proponents in developing applications, and providing comments and recommendations to DOTARS on the applications made from their region.

3.23 The Committee received generally favourable evidence as to the competence and effectiveness of the ACCs in fulfilling these roles. Many submissions to the inquiry, from ACC chairs or executive officers, emphasised the important role that ACCs play in assisting project proponents to develop and submit applications, and in providing recommendations to DOTARS which draw on local knowledge and expertise.³¹ Some submitters questioned the effectiveness of the ACCs, indicating for

26 DOTARS, *Submission 14*, Attachment F, ACC Handbook June 2004, p. 11.

27 *Committee Hansard*, 2 February 2005, p. 75.

28 Pilbara Area Consultative Committee, Answers to questions on notice, received 3 August 2005; Mr Durant, Executive Officer and Mr Haerewa, Chair, Kimberley Area Consultative Committee, *Committee Hansard*, 15 July 2005, pp 88-91.

29 Central Queensland Area Consultative Committee, *Submission 12*, p. 3.

30 DOTARS, *Submission 14*, p. 14.

31 See for example, *Submission 3*, *Submission 7*, *Submission 10*, *Submission 11*, *Submission 22*, *Submission 23*, *Submission 29*, *Submission 35*.

example that ACC members lacked experience relevant to the program or to specific projects.³² The overall impression of the Committee, however, is that most ACCs comprise dedicated individuals committed to their region's progress.

Developing applications

3.24 Although applications for funding under RPP can be lodged directly with DOTARS, applicants are advised to first consult with their ACC.³³ The program guidelines state:

Your ACC can:

- provide you with advice on obtaining and providing evidence of broad community and business support for your project;
- assist you with identifying other project partners;
- ensure that all the relevant areas of your application form are completed in sufficient detail.³⁴

3.25 The guidelines go on to advise proponents that:

Involving your ACC in the project and application development phase will reduce the assessment time with the Department, so it is in your best interest to consult with your ACC early.³⁵

3.26 Similar advice is given in the RPP application form for projects over \$25,000.³⁶ A different application form is used for projects of a lesser value. This form does not recommend that proponents consult with their ACC, but indicates that the ACCs are available to provide assistance and asks proponents to indicate whether they have consulted with their ACC in preparing the application.³⁷

3.27 The RPP Internal Procedures Manual states that 'Although there is no formal Expression Of Interest (EOI) form or process, ACC's should encourage applicants to submit an informal EOI'.³⁸ Evidence to the inquiry shows that at least some ACCs follow this process in assisting proponents to develop applications.

32 Ms Connelly, Connelly Public Relations Group, *Submission 2*, p. 2; Mr Allen, President, North Burnett Regional Economic Development Council, *Submission 33*, p. 1.

33 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, pp 2-3.

34 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 2.

35 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 3.

36 DOTARS, *Regional Partnerships Application Form for more than \$25,000*, www.regionalpartnerships.gov.au/docs/application.aspx, accessed 19 August 2005.

37 DOTARS, *Regional Partnerships Application Form for \$25,000 and less*, www.regionalpartnerships.gov.au/docs/application.aspx, accessed 19 August 2005.

38 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September2004, p. 19.

3.28 DOTARS has set out a range of matters that ACCs should cover with proponents in developing RPP applications. These include ensuring adequate detail is included in the application, advising applicants of the information that may be required by DOTARS when assessing the application, and reminding proponents of the discretionary nature of the program.³⁹ Other forms of assistance that ACCs are asked to provide include obtaining funding partners and other support for projects, identifying project outcomes, identifying and budgeting for performance measures, and gathering evidence about the project's impact on other businesses or groups.⁴⁰

3.29 Once applications have been completed, either with the assistance of the ACC or by the applicant alone, they are submitted to DOTARS. Applicants are encouraged to submit applications online directly into the TRAX system, but can also use an electronic 'smart' form, a Microsoft Word based form, or submit a paper application.⁴¹

Providing comments and recommendations

3.30 DOTARS regional office staff assign lodged RPP applications to the relevant ACC for comments and recommendations. When an application is assigned to an ACC, the TRAX system generates an automatic notification to the ACC executive officer.⁴² DOTARS witnesses advised that this step normally occurs within 24 hours of receipt of the application.⁴³ DOTARS witnesses also commented that, given the above involvement of ACCs in developing project applications, 'the vast majority of projects are known to ACCs before they are lodged as applications'.⁴⁴

3.31 The RPP Internal Procedures Manual states that ACCs should provide comments and recommendations to the department within 10 working days for those projects that had been developed in consultation with the ACC. However, 'the ACCs are not required to meet this timeframe for projects they have not been consulted on'.⁴⁵ In practice, the timeframes allowed for the ACC assessment process vary widely. The Committee received evidence that in some cases the full 10 days was applicable. However, in the case of the UNE maths and science centre, discussed in Chapter 8,

39 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, pp 20-21.

40 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, pp 19-20.

41 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 51.

42 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 57.

43 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 32.

44 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 31.

45 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 58.

only 24 hours was given for an ACC response. In other cases, such as the Beaudesert Rail RPP grant discussed in Chapter 4, the relevant ACC was not consulted at all.

3.32 Ms Riggs told the Committee that in some cases shorter response times are required:

The procedures manual...I believe sets a...time frame for the return of the ACC comments, but, in some cases, a project is time critical. Most commonly time criticality is identified by the applicant, because we ask them to do that, and then we would talk to the ACC and ask them whether it is possible for them to formulate their views in less than the time provided in the standard process.⁴⁶

3.33 The time frame allowed for ACC comments and recommendations was a particular issue for two projects, Tumbi Creek and the University of New England maths and science centre, discussed in Chapters 5 and 8 of the report.

3.34 When commenting on an application, ACCs are asked to consider the priorities identified in their Strategic Regional Plan, the objectives and criteria for RPP, the strengths and weaknesses of the project and any other regional issues impacting on the application.⁴⁷ In addition to an overall recommendation and priority rating for the project (rated 1-4), ACCs provide comments against seven review questions, covering the project's consistency with the Strategic Regional Plan, outcomes, partnerships and support, applicant viability, project viability, duplication and competitive neutrality issues.⁴⁸ ACCs provide their comments back to the DOTARS regional office via the TRAX system.⁴⁹

Status and format of the ACCs' advice

3.35 It was not clear at the outset of the inquiry the status that ACC comments and recommendations received once lodged with the department. The RPP guidelines state that ACCs are the '*Department's* primary provider of independent advice on all applications from their region' [emphasis added].⁵⁰ However, DOTARS claimed that the information provided by ACCs is advice to the minister. The department's submission states:

Area Consultative Committees (ACCs) make recommendations to DOTARS and the Minister on local projects as well as outlining their

46 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 31.

47 DOTARS, *Submission 14*, p. 16.

48 See for example, ACC comment forms provided in Far North Queensland ACC, Minutes and Recommendations, received 1 April 2005.

49 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 58.

50 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 2.

priority in the region for funding the project based upon...its consistency with strategic regional plans.⁵¹

3.36 DOTARS' RPP Internal Procedures Manual states that ACC comments are encompassed under advice to the minister:

ACC comments are regarded as being advice to the Minister and as such are exempt documents under Section 36 of the Freedom of Information Act.⁵²

3.37 Departmental witnesses held to this view throughout the inquiry, repeatedly refusing to provide ACCs' comments and ratings to the Committee for scrutiny, on the basis that this information formed part of the department's advice to its minister.

3.38 This circumstance contrasted with the Committee's earlier experience in a similar inquiry, into a grant under a predecessor program (Dairy RAP), when an ACC's recommendations were discussed openly and at length.⁵³ Committee members therefore wanted to know when the change to the 'status' of ACC advice had been implemented. Ms Riggs said that the decision to use the new arrangement was made in the first half of 2003, and that the arrangement had been in place since the inception of RPP on 1 July 2003.⁵⁴

3.39 Ms Riggs indicated that the changed arrangements had in part been in response to the findings of the earlier inquiry, which recommended that the department better specify the respective roles and responsibilities of the ACCs in relation to program administration.⁵⁵ The relevant recommendation of that inquiry was:

The Committee recommends that DoTARS define the role of Area Consultative Committees (ACCs) in the implementation of Commonwealth funding programs and undertake a review of the performance of individual ACCs in relation to these responsibilities.⁵⁶

3.40 The Committee notes that there is nothing in the above recommendation that suggests that ACC advice should be withheld from parliamentary scrutiny.

51 DOTARS, *Submission 14*, p. 16.

52 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 50.

53 Senate Finance and Public Administration References Committee report, *A funding matter under the Dairy Regional Assistance Program*, June 2003.

54 *Committee Hansard*, 2 February 2005, p. 63.

55 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 62.

56 Senate Finance and Public Administration References Committee report, *A funding matter under the Dairy Regional Assistance Program*, June 2003, p. 45.

3.41 DOTARS witnesses told the Committee that the new arrangement was not motivated by an intention to conceal information. Mr Peter Yuile, Deputy Secretary, said:

I do not think the motivation was to keep information from the committee...the motivation was the question of putting together a robust process which combined the advice of the department and the advice from the ACCs, who also...have an independent role in assistance to their local communities. The motivation was in trying to bring that together and provide the minister with the most comprehensive picture from both the department and the ACCs; it was not to keep information away from this committee or from anyone else.⁵⁷

3.42 Nevertheless, the reality of the department's new arrangement is that information pertinent to the expenditure of public funds which was previously open to public and parliamentary scrutiny is now withheld by the department. The Committee considers this development an unnecessary obstruction to openness and accountability regarding the expenditure of public funds.

3.43 Given DOTARS' new arrangement of encompassing ACCs' comments within departmental advice to the minister, Committee members sought to clarify the independence of the ACCs' comments:

Senator CARR—Last year, was this committee told that the information of the ACCs was not related, was independent of the work of the department?

Ms Riggs—In respect of the fact that their advice is conveyed to the minister—although in a departmentally produced document—it is independent to the minister and independent of the work of the department. To the extent that my officers also take consideration of it in considering whether or not the application matches the Regional Partnerships guidelines by, for example, meeting the strategic regional priorities determined by the ACC, it is also part of the formative process of the department in formulating its advice for the minister—it is both.⁵⁸

3.44 It is not entirely clear from the evidence to this inquiry the form in which ACC comments are provided to the minister. The RPP Internal Procedures Manual states that 'Where ACC comments on an application are not consistent with the Department's recommendation, the Minister will be advised in the assessor's report'.⁵⁹

3.45 The manual also gives a checklist of items to be included in the packaging of projects for ministerial decision.⁶⁰ This list does not include a copy of the ACC's

57 *Committee Hansard*, 2 February 2005, p. 62.

58 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 29.

59 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 58.

60 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, pp 91-92.

review comments and recommendation. It does include individual project summaries and reasons for the department's recommendation (either 'recommended' or 'not recommended'). These summaries detail, among other things, the local ACC, ACC contact, and ACC priority. The summary also includes a project assessment, but it is not apparent the extent to which this assessment incorporates the ACCs' review comments.

3.46 Ms Riggs said that ACCs' comments are used by DOTARS staff in formulating the project assessments, but also indicated that ACC advice is provided directly to the minister:

I can assure this committee that, quite apart from any use that the department makes in formulating its assessment and therefore advice to the minister about a project, which has regard for the ACC's comments, we relay the ACC's recommendations and summary comments to the minister as part of the package that goes to the minister. So ACCs should be in no doubt that their advice about a project is directly in the hands of the decision maker—it is not hidden or obscured from them.⁶¹

3.47 Documents provided to the Committee by ACCs show that ACC comments against the review questions give important context and in some cases place conditions on the priority rating. A case in point is the A2 Dairy Marketers grant discussed in Chapter 6 of the report. Such context and conditionality may be lost if only the ACC priority rating is provided to the minister.

3.48 As the Committee was unable to scrutinise the ACC advice in the form actually provided to the minister, it cannot conclude whether this information adequately reflects the comments and recommendations made by ACCs.

ACC engagement with political stakeholders

3.49 As discussed in the case studies to follow, the committee received evidence that the progress of some RPP applications has been highly politicised, with grant approvals expedited at the expense of sound application development and assessment procedures.

3.50 In contrast to these examples, the Committee also received evidence of ACCs engaging appropriately and effectively with a range of political stakeholders, within the guidelines and procedures of the program. For example, ACC Tasmania told the Committee that contact with state and federal politicians was one mechanism through which potential projects were brought to the ACC's attention.⁶² ACC Tasmania also said that it has meetings with both state and federal politicians regarding constituents' queries about possible funding for projects, and respond to politicians' requests about

61 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 22.

62 Area Consultative Committee Tasmania (formerly Tasmania Employment Advisory Council), *Submission 30*, p. 2.

the progress of applications. ACC Tasmania indicated that it is able to effectively engage with politicians in sourcing and developing applications and retain independence when assessing applications. ACC Tasmania submitted:

Minister, parliamentary secretary, other ministers and parliamentary secretaries, other senators or members and their advisers and staff, have not had and will not have a role in the ACC comments process of RP applications.⁶³

Assessment phase and funding decision

3.51 ACCs are not formally involved in the assessment of applications subsequent to submitting their comments to DOTARS. In some instances, where DOTARS considers that a lot of additional material is required to support an application, or the application needs further development, the proponent may be advised by DOTARS to contact the relevant ACC.⁶⁴ However, the usual process is that ACCs are not again involved until after the funding decision has been made.

3.52 If applications are successful, responsibility for informing the ACCs lies with the relevant minister.⁶⁵ As the minister prefers that government MPs or Senators have the opportunity to advise successful applicants, proponents may be advised of funding decisions in advance of the ACCs:

The MP / Patron Senator is notified a project has been funded and is invited to advise the applicants and make arrangements for announcement. Two or three days after this, advice to the successful applicants and ACCs will be despatched by the Minister's Office.⁶⁶

3.53 For unsuccessful applications, ACCs are advised in writing by DOTARS regional office staff. The procedures manual states that this advice includes specific reasons for non-approval and that these reasons should relate directly to the RPP criteria.⁶⁷

3.54 A number of submissions to the inquiry indicated that ACCs are sidelined during DOTARS' assessment of applications and given inadequate feedback on the progress of applications.⁶⁸ A common criticism by ACC representatives and project

63 Area Consultative Committee Tasmania, *Submission 30*, p. 4.

64 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, pp 63-64.

65 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 18.

66 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 93.

67 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 93.

68 See for example, *Submission 8*, *Submission 9*, *Submission 18*, *Submission 29*.

proponents was the lengthy time taken from lodgement of applications to funding decisions being made. Ms Robyn Masterman, Chair of the Barossa Riverland MidNorth ACC submitted:

...once projects have been lodged, departmental officers cannot give us feedback other than to advise that the project is "currently under assessment".

This lack of communication can place us in a difficult and occasionally embarrassing position. After developing close relationships with proponents during the project development phase – it is often frustrating for them that we are no longer part of the process. This is especially relevant when projects are delayed with no explanation forthcoming.⁶⁹

3.55 The RP Internal Procedures Manual confirms that DOTARS officers are unable to comment on the progress of applications. The manual advises that once proponents have been advised that an assessment has commenced, 'there should be no further indication given on the likely timing of progress of the assessment'.⁷⁰ The manual also states:

The Department has been specifically requested NOT to advise applicants that their projects are with the Minister or with the National Office [original emphasis].⁷¹

3.56 The Committee recognises the need for independent project assessment. However, transparency of the assessment phase of RPP would be enhanced if communication between the department and ACC during the application assessment phase was improved, particularly given the lengthy delays in assessment of some applications. For example, ACCs could be provided with a statement of the progress of each application still outstanding three months after lodgement of the ACC's comments with DOTARS. The Committee notes that DOTARS and the ACCs have regular contact and forums for discussion and considers that the matters of timeliness of application assessment and communication between DOTARS and the ACCs are best considered in these forums.

Weight given to ACC recommendations – transparency in decision making

3.57 As RPP is a discretionary grants program, funding decisions will not always necessarily accord with departmental or ACC recommendations. In submissions to the inquiry, several ACCs raised the issue of transparency in regard to application assessments and funding decisions.

69 Ms Masterman, Chair, Barossa Riverland MidNorth Area Consultative Committee, *Submission 8*, p. 2.

70 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 59.

71 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual September 2004, p. 59.

3.58 Several ACCs commented that decisions to fund or not to fund projects appear too arbitrary and are inconsistent across the national scene. The Hunter ACC commented that ACC recommendations are not always acted upon, impacting on the ACC's profile in the region and creating a perception that the process may not be fully transparent.⁷² The Orana Development and Employment Council (Orana region ACC) suggested that transparency could be improved by making the department's briefs to its Secretary and DOTARS' recommendations to the minister available to the ACC and proponent.⁷³

Promoting the RP program

3.59 In addition to assisting proponents to develop applications and providing assessment comments on applications from their region, ACCs also have primary responsibility for promoting RPP. Ms Riggs told the Committee that it had been a conscious decision by DOTARS to promote the availability of RPP through the work of the ACCs.⁷⁴ Ms Riggs explained:

...the predominant [promotional] work is at the local level, because of the very strong emphasis in Regional Partnerships on there being partnership, on it being tied to the local community and on it meeting the needs of the local community. I think the sorts of activities of the ACCs that are incredibly effective in spreading the word include the fact that most ACCs do not just meet in one place; they travel around the communities within their regions.⁷⁵

3.60 ACCs have access to standardised promotional material which DOTARS requests they use for generic promotion of RPP.⁷⁶ In addition, ACCs also develop their own package of marketing material. This in part reflects that ACCs also play a role in promoting and implementing other federal or state government programs as well as RPP, so may each have different marketing requirements.⁷⁷ ACC marketing budgets are scrutinised by DOTARS regional office staff. Ms Riggs explained that while RPP needs some promotion, 'we would rather see the money go into great supporting structures in the ACCs, in order to support good projects, rather than into what I would call untargeted generic marketing or promotion work'.⁷⁸

3.61 The Committee was furnished with a selection of ACC promotional material during the inquiry, including ACC newsletters and brochures. Committee members commented on the quality of the material produced, but also cautioned ACCs to be

72 Hunter Area Consultative Committee, *Submission 7*.

73 Mr Warren, CEO of the Orana Development and Employment Council, *Submission 51*, pp. 3-4.

74 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 42.

75 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 42.

76 *Committee Hansard*, 12 August 2005, p. 17.

77 *Committee Hansard*, 12 August 2005, p. 17.

78 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 17.

alert to the possibility of inadvertent political bias in their advertising and promotional material. As noted previously, ACCs are established as independent bodies and are expected to conduct their operations in a non-partisan manner.

ACC outcomes and performance measures

3.62 One element of the Commonwealth's funding contract with ACCs is a set of Key Performance Indicators (Annexure 3 to the standard contract). This annexure describes the outcomes that ACCs are expected to achieve against their key roles and sets target performance levels.

3.63 Ms Riggs explained that the Key Performance Indicators (KPIs) had been developed with the ACC Chairs Reference Group, a group of 12 ACC chairs who meet on a monthly basis. Ms Riggs indicated that identifying and refining the KPIs was an iterative process, with the results of the current KPIs yet to be assessed.⁷⁹

3.64 Evidence to the Committee suggests that the standard performance goals and measures do not necessarily relate to outcomes preferable or achievable in all areas. For example, one of the ACC performance measures is an 'Increase in employment through approved Regional Partnerships projects to the private sector'.⁸⁰ The target associated with this measure is that, for private sector projects, three or more jobs are directly created for every \$50,000 of regional partnership funding.

3.65 The Committee received evidence that in focussing on job creation, RPP was failing to meet the needs of some communities. Mr Ron Yuryevich, Chair of the Goldfields Esperance ACC, said that the ACC been had advised that priority would be given to RPP projects with employment based outcomes. Mr Yuryevich outlined that this criterion was inappropriate for the Goldfields Esperance region which already had low unemployment and difficulty filling job vacancies.⁸¹ Mr Yuryevich stated that services and infrastructure based projects were more important for the region than employment based projects.

3.66 Other submitters raised issues regarding the level of partnership support required for projects. The KPIs set a target level of an average of 70 per cent total partnership contribution (55 per cent cash contribution) for private sector projects. For non-private sector projects the target levels are different across regions from an average of 50 per cent total partnership funding (20 per cent cash) in remote areas, to 60 per cent partnership funding (50 per cent cash) in metropolitan areas.

3.67 Evidence to the Committee showed that a number of exceptions have been made to allow lower levels of partnership funding for some projects.⁸² For example,

79 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 18.

80 DOTARS, *Submission 14*, Attachment G, Operational Funding Contract, p. 38.

81 Mr Yuryevich, Chair, Goldfields Esperance Area Consultative Committee, *Submission 54*.

82 DOTARS, *Revised RPP tables*, received 11 May 2005.

RPP grants were approved to contribute 66 per cent of the Tumbi Creek dredging project costs, with only 34 per cent contribution from the proponent. In the case of Primary Energy 70 per cent of the project funding was to come from RPP.

3.68 The Committee heard that partnership funding requirements can be prohibitive to small remote communities facing hardship. Mr Warren, CEO of the Orana region ACC, submitted:

Many communities have a very limited capacity to contribute cash to projects, especially in cases where the project proponent is a not for profit voluntary organisation.

Continuing hardship caused by drought has reduced the capacity of many communities to meet the guidelines for partnership contributions. A more generous consideration of these guidelines would allow more community and locally derived projects to come forward.⁸³

3.69 Ms Cheryl Gwilliam, Director General of the Western Australia Department of Local Government and Regional Development outlined that some regional communities, including remote Indigenous communities, do not have the resources or expertise to develop project applications and to liaise with multiple funding partners. Ms Gwilliam submitted that while ACCs can give advice, the direct project development assistance and community development work needed to enable these communities to access the RPP program is beyond their charter and resources.⁸⁴

3.70 As the Tumbi Creek and Primary Energy case studies illustrate in Chapters 5 and 7, in some cases lower than recommended levels of partnership support have been accepted for RPP projects. The Committee is concerned that RPP guidelines have been waived for costly projects with high political profile but applied rigorously to exclude other worthwhile projects at an earlier stage.

Cross region projects

3.71 The Committee received evidence that the structure of the ACC network and KPIs discourages inter-regional development. Mr John MacDonald of the Melbourne Central and Southern ACC said:

...the program generally encourages proponents (and their local ACCs) to bring forward submissions based on (or within) the artificially defined regions covered by ACC boundaries. In fact, the Regional Partnerships Program actively discourages inter-regional cooperation via the establishment of Key Performance Indicators (KPIs) that do not promote

83 Mr Warren, CEO, Orana Development and Employment Council (Orana region ACC), *Submission 51*, p. 4.

84 Ms Gwilliam, Director General, Department of Local Government and Regional Development, Government of Western Australia, *Submission 34*.

the development of cross-regional projects. Instead the KPIs focus on further breaking down the already defined ACC regions into sub-regions.⁸⁵

3.72 Mr MacDonald also submitted that more complex and innovative RPP projects are put forward in the metropolitan regions, but that these are viewed less favourably. Mr MacDonald said that the project evaluation framework for RPP is tailored to simple projects with clearly defined short-term outcomes and indicated that for complex projects a two to three year evaluation time frame may be more appropriate, with part of the project budget specifically allocated to project evaluation.⁸⁶

3.73 DOTARS informed the Committee that by and large ACCs in the metropolitan regions have been amalgamated:

Over time the ACCs themselves have come to realise that the issues in metropolitan Australia that they were dealing with did not lend themselves to small ACCs but to those covering larger metropolitan chunks. Melbourne is the only major capital city where we do not in essence have one large ACC covering predominantly the whole of the metropolitan area.⁸⁷

3.74 The Committee considers that collaborative projects, including multi-region projects, should be encouraged and supported by regional development programs. As discussed later in the report, the Committee considers that appropriate guidelines and procedures for the development and assessment of multi-region projects can be incorporated into a standard set of publicly available RPP guidelines.

Defining the role of ACCs

3.75 Currently, the ACCs have an important role in ensuring that applications brought forward for RPP funding are appropriate for the program. As acknowledged by Minister Truss in a recent speech to South Australian ACCs, ACCs must provide sound advice to ensure that inappropriate or ineligible projects are not put forward:

Area Consultative Committees are crucial in ensuring project applications that are submitted to the Department under the Regional Partnerships program are robust and of a high standard. Without your frank and honest advice to applicants about the suitability of their early ideas and proposals, many communities would struggle to meet the very high standards of assessment.⁸⁸

85 Mr MacDonald, Melbourne Development Board (Melbourne Central and Southern Area ACC), *Submission 4*, p. 1.

86 Mr MacDonald, Melbourne Development Board (Melbourne Central and Southern Area ACC), *Submission 4*.

87 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 74.

88 Minister Truss, Speech to South Australia ACCs meeting, Thursday 1 September 2005, www.ministers.dotars.gov.au/wtr/speeches/2005/WS10_2005.htm

3.76 Minister Truss also acknowledged that the RP program may be open to abuse if ACCs did not provide robust advice:

I hope that you will also assist commercial applicants, again by giving them up-front and honest advice. I would be disappointed if commercial applicants gained the impression that the Regional Partnerships program was some form of top-up finance; it should be made clear to them that they are expected to have sought funds through normal channels, and to present a robust business case.⁸⁹

3.77 In addition to emphasising the ACCs' role in providing appropriate information about the RP program, Minister Truss also acknowledged that the capacity of the RP program to deliver outcomes to communities relies on the competence of project proponents and that ACCs may be well placed to assess this capacity:

Your [ACC's] discussions with potential applicants may raise some concerns that they do not have the experience to manage the projects they are proposing. In this case, you should encourage them to ensure they have partners - or even a sponsor - who will help them with the skills needed to run the project.⁹⁰

3.78 As evident in the A2 Dairy Marketers grant discussed in Chapter 6, where the proponent's business folded *before* the project even commenced, there is currently no sound mechanism in place to ensure that proponents are equipped to deliver projects funded by RPP.

3.79 Given the Minister's expectations of ACCs stated above, including reliance on the ACCs to provide advice and to help assess proponents' capabilities, the Committee questions whether the currently specified roles for ACCs encapsulate their real contribution to the program. Further, the Committee questions whether the contribution of ACCs to the program is fully maximised. With their in-depth community knowledge, ACCs are well placed to assess whether the program is delivering the real levels of regional development required in their communities and expected from such a substantial program.

89 Minister Truss, Speech to South Australia ACCs meeting, Thursday 1 September 2005, www.ministers.dotars.gov.au/wtr/speeches/2005/WS10_2005.htm

90 Minister Truss, Speech to South Australia ACCs meeting, Thursday 1 September 2005, www.ministers.dotars.gov.au/wtr/speeches/2005/WS10_2005.htm

Chapter 4

Beaudesert Rail

Background

4.1 The town of Beaudesert in south east Queensland is situated between, and is equidistant from, Brisbane and the Gold Coast. Until the mid 1990s Queensland Rail operated a rail service between Beaudesert and Bethania, 43 kilometres away on the Brisbane-Gold Coast line. Queensland Rail ceased to operate the line when an abattoir closed in the Beaudesert Shire and there was no longer any freight to carry.

4.2 In 1997 local citizens formed the Beaudesert Shire Railway Support Group Association Inc. (BSRSG) in an attempt to retain the corridor and to reopen the line. The association unsuccessfully petitioned the responsible minister in the state government to recommence a passenger service to Beaudesert, with an occasional tourist steam train.¹ The association, again unsuccessfully, applied in 1998 for a grant of \$5 million from the Commonwealth Government's Federation Cultural and Heritage Projects program.²

4.3 In March 2000, the association, trading as Beaudesert Rail (BR), applied through the Gold Coast and Region Area Consultative Committee (GCRACC) for a grant from the Regional Assistance Program, a precursor of the RPP, for the development of a business and marketing plan for BR to gain Queensland Transport accreditation as a railway manager-operator.³ The GCRACC supported the application and BR received a grant of \$75,000 plus GST for that purpose.

4.4 In 2001 BR applied for, and received, a Commonwealth Government grant of \$5 million from the Centenary of Federation fund to develop and operate a heritage railway from Bethania to Beaudesert. That grant enabled BR to restore the track and other facilities, to purchase and restore rolling stock and to begin operating as a tourist railway at the end of December 2002.

4.5 Early in December 2002, however, BR's management committee was informed by its then general manager that it had a deficit of \$120,000. In January 2003, it was advised that deficit had increased to \$500,000.⁴

1 Mr Cawley, former President of the Beaudesert Shire Railway Support Group, *Committee Hansard*, 25 February 2005, p. 2.

2 Mr Cawley, *Committee Hansard*, 25 February 2005, p. 1.

3 Mr Gassman, former Chair, Gold Coast and Region Area Consultative Committee, *Committee Hansard*, 25 February 2005, p.28.

4 Mr Cawley, *Committee Hansard*, 25 February 2005, p. 2.

4.6 BR continued to trade after December 2002 despite its financial situation because the committee of management believed, on the advice of its auditor and others, that it could continue to trade if it did not incur additional debts and if its ongoing expenses were met from its cash flow.⁵

4.7 In February 2003, BR's general manager sought assistance from the GCRACC to assess BR's financial status. A grant of \$10,000 plus GST was made to GCRACC for that purpose, again under the Regional Assistance Program. On 27 February GCRACC engaged a firm of chartered accountants 'to establish the current financial position of BR and to consider...management, funding and strategic options for the ongoing viability of BR'.⁶

4.8 The accounting firm, Lee Garvey, reported to GCRACC on 28 March 2003 that as at 28 February 2003 BR owed its creditors \$1,244 644, that it had insufficient liquid assets to meet current liabilities as and when they fell due and that BR was therefore technically insolvent.⁷ The report ('the Lee Garvey Report') suggested that with the agreement of creditors it might be possible to put in place a rescue package.⁸

4.9 The report was presented to BR's management committee on 31 March. At a meeting on 30 April 2003, the management committee, knowing that legal action by creditors to wind up the association was imminent, resolved to apply to the Supreme Court of Queensland to appoint a provisional liquidator.⁹

4.10 The Court appointed a provisional liquidator (Mr L McIntosh, a partner in KordaMentha) on 2 May 2003. After assessing BR's assets, and determining that creditors would receive no more than 15 cents in the dollar if BR were wound up, Mr McIntosh decided that it should continue trading because, as he informed the committee of management, if BR had ceased to trade, 'any likelihood of obtaining further government funding to pay out the creditors of Beaudesert Rail would be jeopardised'.¹⁰

5 Mr Gillow, *Committee Hansard*, 25 February 2005, p. 79.

6 Lee Garvey Chartered Accountants, *Financial Assessment of Beaudesert Shire Railway Support Group Association Inc.* 28 March 2003, p. 3, tabled 25 February 2005.

7 Lee Garvey Chartered Accountants, *Financial Assessment of Beaudesert Shire Railway Support Group Association Inc.* 28 March 2003, p. 3, tabled 25 February 2005.

8 Lee Garvey Chartered Accountants, *Financial Assessment of Beaudesert Shire Railway Support Group Association Inc.* 28 March 2003, p. 4, tabled 25 February 2005.

9 Minutes of the special committee meeting of Beaudesert Rail held 30 April, 2003, p. 2, tabled 25 February 2005.

10 *Provisional Liquidator's Report for Beaudesert Shire Railway Support Group Inc (In Provisional Liquidation)*, 13 June 2003, p. 2, in Receiver's minutes of meetings and reports to creditors, tabled 25 February 2005.

4.11 BR and Mr McIntosh sought further Commonwealth Government funding through the local Member of Parliament, the Member for Forde, Mrs Kay Elson.¹¹ Mrs Elson made representations to the Prime Minister who responded, on 11 June 2003, that he was 'inclined to support the provision of a \$400,000 Commonwealth loan',¹² subject to certain conditions. Those conditions were, first, that the project would have to obtain funds of at least \$800,000 from the Queensland State Government and/or other sources and, second, that BR would need to provide updated financial statements and a business plan demonstrating that the project could be made financially viable.¹³

4.12 Mr McIntosh wrote to the Prime Minister on 15 July 2003 to inform him that Queensland Government funding had been obtained from Queensland Rail, which had agreed to take out a lien on BR's steam engine in consideration for forgoing its unsecured loan of \$675,236.22. He also informed the Prime Minister that the Beaudesert Shire Council had agreed to provide funding of \$200,000 towards working capital for Beaudesert Rail, subject to conditions. Mr McIntosh enclosed with his letter a business plan prepared by BR's General Manager, which he said gave him confidence that the project was financially viable. He formally requested the release of the \$400,000 by 5 August.¹⁴

4.13 BR continued to operate, paying for its ongoing expenses from its cash flow, during the period that it was in provisional liquidation (and then under administration, from 25 September 2003), except for two periods amounting to several weeks following a derailment on 28 June 2003 and a bridge fire in October 2003. During that time the government, through DOTARS, tried to establish with Mr McIntosh whether the conditions of the proposed loan could be met.

4.14 Mr McIntosh was able to satisfy DOTARS that BR could meet most of conditions for the loan, but on 30 October 2003 he was still attempting to satisfy the department that the project would be financially viable.¹⁵ In that regard, the Committee was informed that DOTARS obtained from KPMG an independent

11 See, for example, *Provisional Liquidator's Report for Beaudesert Shire Railway Support Group Inc (In Provisional Liquidation)*, 13 June 2003, p. 3, in Receiver's minutes of meetings and reports to creditors, tabled 25 February 2005.

12 The Hon John Howard MP, Prime Minister, correspondence to the Member for Forde, Mrs Elson MP, 11 June 2003, in Receiver's correspondence with DOTARS, tabled 25 February 2005.

13 The Hon John Howard, Prime Minister, correspondence to the Member for Forde, Mrs Elson MP, 11 June 2003, in Receiver's correspondence with DOTARS, tabled 25 February 2005.

14 Mr McIntosh, correspondence to the Hon John Howard, Prime Minister, 15 July 2003, in Receiver's correspondence with DOTARS, tabled 25 February 2005.

15 Mr McIntosh, correspondence to DOTARS, 31 October 2003, in Receiver's correspondence with DOTARS, tabled 25 February 2005.

financial assessment of BR's ongoing financial viability.¹⁶ BR's financial viability is discussed in more detail later in this chapter.

4.15 Documents provided in evidence to the Committee reveal that in the final days leading up to the government decision on BR the Deputy Prime Minister, The Hon John Anderson MP, who was also the portfolio minister for RPP, was involved in discussions with the Prime Minister's office about the matter of government assistance. It would seem that these negotiations continued until late in the afternoon on 4 November—the day before the decision was made.¹⁷ It is also clear from the evidence that at this stage the department was completely unaware of where the discussions between the Deputy Prime Minister and the Prime Minister's office were heading in relation to BR. Right up until the eve of the decision the department, including the most senior officer in charge of the BR issue, were continuing to work on the basis that any funding would be in the form of a loan.¹⁸

4.16 On 5 November 2003, the Minister for Transport and Regional Services, Mr Anderson, advised Mr McIntosh that the government would provide BR *not* with a loan, but with a *grant* (of \$600,000) for its future operations. The grant was to be made on the condition that BR obtained at least \$800,000 from the Queensland State Government and/or other sources. This was one of the conditions set in the Prime Minister's letter to Mrs Elson of 11 June 2003 regarding the possible loan. The grant was to be paid in two instalments—the first, of \$400,000, was for BR's immediate funding needs and the second, of \$200,000, was for operating capital. The second instalment was to be paid when BR had satisfied the Australian Government that all arrangements were in place to give effect to the Deed of Company Arrangement, that is, that all creditors had been paid the amounts specified in the legal agreement that had been made between the creditors and the administrator.¹⁹

4.17 Following the payment of the grant, the management of BR then became the responsibility of a new management committee.²⁰ BR continued to operate until August 2004, when the largest bridge on the railway was burnt. This was the fifth or sixth mishap, including a derailment and grass and bridge fires that had befallen the

16 See Ms Riggs, answer to question on notice, p. 2, received 16 May 2005, in which DOTARS stated that the KPMG report formed part of the department's advice to the minister and would not be provided to the Committee.

17 See the email traffic between a departmental officer and the liquidator's office, 3 and 4 November 2003, in Receiver's correspondence with DOTARS, tabled 25 February 2005.

18 See Ms Riggs, *Committee Hansard*, 25 February 2005, p. 96.

19 The Hon John Anderson MP, Deputy Prime Minister and Minister for Transport and Regional Services Correspondence, correspondence to Mr McIntosh, 5 November 2003, in Receiver's correspondence with DOTARS, tabled 25 February 2005.

20 The previous management committee had stood down in June 2003 at the request of the provisional liquidator and a new, more professionally oriented board was elected in September 2003. See Mr Robert, *Committee Hansard*, 25 February 2005, p. 4 and Mr Munn, *Committee Hansard*, 25 February 2005, p. 60.

railway since it commenced operations in December 2002. On this occasion BR did not have sufficient funds (\$132,000) to effect the necessary repairs, and had to cease operations. Subsequently, in February 2005, on the application of a number of creditors, those creditors took possession of certain assets and of BR's operational records and bank accounts.²¹

Commonwealth Government involvement

4.18 The Commonwealth Government provided BR with four grants amounting in total to \$5.7 million.

4.19 As stated earlier the first grant of \$75,000 plus GST, was for the production of a business and marketing plan. That grant was made under the Regional Assistance Program and was processed through the GCRACC. The responsible government department was the Department of Employment, Workplace Relations and Small Business. Ms Riggs informed the Committee that the grant was acquitted through that department on 25 May 2001.²²

4.20 The second grant of \$5 million was made from the Centenary of Federation Fund. DOTARS had the responsibility for administering that grant, but the GCRACC was not involved. There are different views about whether the grant was adequate for the intended purpose and indeed whether it should have been made at all.²³ Nevertheless the evidence indicates that the various instalments of the grant were carefully administered and monitored by DOTARS,²⁴ but the grant was not acquitted with DOTARS till October 2003.²⁵ The late acquittal of the grant was one of the issues that was raised by DOTARS when it was corresponding with Mr McIntosh regarding the conditions of the proposed loan, as is discussed later in the chapter.

4.21 The third grant of \$10,000 plus GST was made in February 2003 and was for a report on BR's financial situation and suggestions for a way forward. That report (the Lee Garvey report) has been discussed earlier in this chapter. BR applied to the GCRACC, which supported the application. The grant was made from the RAP to the ACC and was administered by DOTARS.

4.22 The Commonwealth Government was again involved in the project in June 2003 when, on the representations of the Member for Forde, the Prime Minister made a conditional offer of a loan of \$400,000. DOTARS was given the responsibility for

21 Mr Munn, *Committee Hansard*, 25 February 2005, p. 53.

22 Ms Riggs, *Committee Hansard*, 25 February 2005, p. 90.

23 Mr Daynes, Correspondence with the Gold Coast and Region Area Consultative Committee, 25 April 2003, p. 3, and *Committee Hansard* (in camera), 25 February 2005.

24 See, for example, Mr Robert, *Committee Hansard*, 25 February 2005, p. 6.

25 Ms Riggs, *Committee Hansard*, 25 February 2005, p. 91.

facilitating the loan, although the department did not administer any programs that offered loans.²⁶

4.23 DOTARS did not intend, however, that the proposed loan would be made under either the RP or SR programs. Ms Riggs informed the Committee that at the time DOTARS was 'contemplating the provision of additional funding through the additional estimates process, in the latter part of 2003, specifically for the proposed loan'.²⁷ Ms Riggs also admitted in evidence to the Committee that, as it failed to fit any existing departmental programs, the unique nature of the proposed loan and the one-off appropriation to fund it amounted to effectively an additional or new program.²⁸

4.24 From 13 August 2003 till early November 2003 DOTARS and Mr McIntosh were in frequent communication concerning BR's ability to meet the conditions of the loan. As discussed in the next section, BR had satisfied DOTARS that it would be able to meet most of the conditions for the loan but on 30 October 2003 the department was still seeking detailed, additional evidence from BR, as follows:

I am seeking further evidence that the project's prospects of solvency in the first year can be improved. I will require this response as soon as possible tomorrow if I am to maintain the possibility of finalising a loan agreement before 6 November 2003.²⁹

4.25 The offer of a loan was in effect withdrawn on 5 November 2003 when the government decided to provide further assistance to BR by way of a fourth grant. DOTARS was given the responsibility of administering the grant through the RPP.

4.26 DOTARS and BR signed a Regional Partnerships funding agreement on 14 December 2003. As is the normal practice, DOTARS paid the grant monies only when it was satisfied that the conditions of the agreement had been met. The first instalment of the grant was paid to BR on 18 December 2003. The second instalment was paid in February 2004, after Mr McIntosh attested that he had complied with all the requirements to give full effect to the Deed of Company Arrangements.

4.27 Although the grant was made from RPP funds, the government apparently did not treat it as a grant that would normally be made under the program. In that regard, BR had not applied for a RP grant, nor had GCRACC been consulted. Ms Riggs told the Committee:

26 Ms Riggs, *Committee Hansard*, 25 February 2005, p. 93.

27 Ms Riggs, *Committee Hansard*, 25 February 2005, p. 93.

28 Ms Riggs, *Committee Hansard*, 25 February 2005, p. 93.

29 Ms Riggs, correspondence to Mr McIntosh, 30 October 2003, in Receiver's correspondence with DOTARS, tabled 25 February 2005. (The various deadlines for the provision of information set by DOTARS were determined by the dates set down for proceedings in the Queensland Supreme Court to wind up Beaudesert Rail.)

Regional Partnerships was simply an existing program from which the grant was paid, and that is why in the subsequent budget the government provided an additional \$600,000 to top up the Regional Partnerships appropriation.³⁰

4.28 The manner in which the government resorted to using program funds for the BR grant reveals the disregard on the part of its most senior ministers for the RPP guidelines. It is one of several examples in this report of the virtually unfettered discretion in the hands of ministers under this program (see also chapter 7 on Primary Energy). The other striking aspect of the BR case is that program funds were used to achieve a political outcome in a government-held electorate following direct intervention from the Prime Minister.

Financial viability

4.29 A major issue arising from the provision of taxpayers' monies to BR is whether the government could have reasonably concluded at any time that the project would be financially viable, which is a requirement under the RP guidelines.

4.30 The first grant that was made to BR was for the provision of a business and marketing plan to gain accreditation from Queensland Transport as a railway manager-operator. That report presumably was taken into account when the government awarded the \$5 million Centenary of Federation grant. The Committee did not have access to that report, but one witness stated that the business plan had some serious flaws. In that witness' opinion, an overestimate of the possible income was one of the flaws.³¹

4.31 Mr Daynes, the former General Manager of BR, also identified a number of flaws, as follows:

The report was attractive in the promise of financial returns and a wonderful contribution it would make to the workforce and economy of the Beaudesert Shire.

The plan did not include the upgrades and maintenance of the railway infrastructure or any cost of restoring locomotives or rolling stock.³²

4.32 Mr Daynes also wrote that:

There was never any figure that could be substantiated as to how much the infrastructure upgrade would cost or if the rolling stock restoration figures were realistic. Surely this was the responsibility of the funding body before handing out \$5 million of public money.

30 Ms Riggs, *Committee Hansard*, 25 February 2005, p. 91.

31 *Committee Hansard* (in camera), 25 February 2005.

32 Mr Daynes, correspondence to the Gold Coast and Region Area Consultative Committee, 25 April 2003, p. 2, tabled 25 February 2005.

When the grant was made public the BSRSB was as surprised to get the grant as the political organisations who condemned the grant.³³

4.33 However, the Committee was informed by another witness that, but for the inadequacies of the then management, the project could have been brought in on budget and on time in accordance with the business plan.³⁴ The then secretary of the committee of management, Mr Robert, did not necessarily share that opinion³⁵ and neither did Mr Daynes, who claimed in April 2003 that it was apparent by October 2001 that the project would have a deficiency in funds to complete the project by December 2002.³⁶

4.34 When the BR management committee was told in January 2003 that the deficiency amounted to \$500,000, it prudently decided to ask the GCRACC to fund a report on its financial situation. As reported earlier, the ACC received a grant of \$10,000 plus GST with which it commissioned the Lee Garvey report.

4.35 The Lee Garvey report found that 'Capital expenditure relating to the Commonwealth Grant was \$6,091,188, \$1,091,188 over budget'³⁷ and observed that in normal circumstances winding up would be the most likely scenario. The report suggested, however, that if a rescue package could have been put in place there may have been a chance for BR to move forward. One option that the report put forward required BR to obtain a package of funding from financial institutions, Commonwealth and State Governments.³⁸ As discussed earlier, that was the option eventually chosen by the liquidator.

4.36 Lee Garvey prepared a cash flow forecast for the year, 1 April 2003 to 31 March 2004, which indicated that BR might achieve an operating surplus of approximately \$462,000 for the year. The report stated that the forecast cash flow 'establishes a basis for ongoing viability however there is insufficient cash flow ... to meet current creditor liabilities'.³⁹

4.37 The Lee Garvey forecast assumed that monthly ticket sales and charters would be as much as \$131,699 in February 2004. Estimates submitted by Mr McIntosh to

33 Mr Daynes, correspondence to the Gold Coast and Region Area Consultative Committee, 25 April 2003, p. 2, tabled 25 February 2005.

34 *Committee Hansard* (in camera), 25 February 2005.

35 Mr Robert, *Committee Hansard*, 25 February 2005, p. 3.

36 Mr Daynes, correspondence to the Gold Coast and Region Area Consultative Committee, 25 April 2003, p. 2, tabled 25 February 2005.

37 Lee Garvey Chartered Accountants, *Financial Assessment of Beaudesert Shire Railway Support Group Association Inc. 28 March 2003*, p. 3, tabled 25 February 2005.

38 Lee Garvey Chartered Accountants, *Financial Assessment of Beaudesert Shire Railway Support Group Association Inc. 28 March 2003*, p. 3, tabled 25 February 2005.

39 Lee Garvey Chartered Accountants, *Financial Assessment of Beaudesert Shire Railway Support Group Association Inc. 28 March 2003*, p. 12, tabled 25 February 2005.

DOTARS in October 2003 forecast sales of only \$31,973 for February 2004, and DOTARS sought assurances that sales forecasts even at that level were realistic.⁴⁰

4.38 Following the Prime Minister's indication that a loan of \$400,000 might be available, DOTARS explored with Mr McIntosh the viability of the project. As stated earlier, the matter had still not been resolved to the satisfaction of DOTARS before the Deputy Prime Minister offered the grant of \$600,000 plus GST on 5 November 2003. As Ms Riggs informed the Committee on 25 February 2005 in relation to BR's ability to service the loan:

Senator O'Brien – So, Ms Riggs, at that time the department had overwhelming evidence that the project, in its view, was never going to be viable, and you were defending the interests of the taxpayer at that time?

Ms Riggs – We had what I believed to be an informed and experienced judgment that if what the Commonwealth offered were a loan then, based on projections available to us from the person then responsible for Beaudesert Rail, its future could not be assured on those terms.⁴¹

4.39 As discussed earlier, the first tranche of the grant promised to BR on 5 November 2003 was used to pay its creditors under the Deed of Settlement. The second tranche of \$200,000 was for working capital. The need for working capital had been recognised in the Lee Garvey report which had recommended that it would be important to allow for working capital of approximately one third of [the] expected surplus of \$462,000 'in order to ensure that BR is able to always meet future commitments as and when they become due'.⁴²

4.40 Lee Garvey therefore had considered that an amount of approximately \$150,000 would be needed to support BR's ongoing operations. As it happened, even the apparently generous grant of \$200,000 from the RPP proved to be insufficient. In August 2004, BR was not able to find \$132,000 to repair a bridge that was damaged by fire.

Conclusion

4.41 Clearly, Mr McIntosh had not been able to demonstrate to DOTAR's satisfaction that BR was sufficiently economically viable to service a loan of \$400,000. That appears to have been for that reason that the government decided to provide financial assistance in the form of a grant. However, even a grant of \$600,000 proved insufficient when BR needed to find funds to repair a bridge so that it could continue operating.

40 Ms Riggs, correspondence to Mr McIntosh, 30 October 2003, in Receiver's correspondence with DOTARS, tabled 25 February 2005.

41 Ms Riggs, *Committee Hansard*, 25 February 2005, p. 96.

42 Lee Garvey Chartered Accountants, *Financial Assessment of Beaudesert Shire Railway Support Group Association Inc.* 28 March 2003, p. 3, tabled 25 February 2005.

4.42 As stated earlier, BR was wound up on the application of a number of creditors in February 2005.

4.43 It may be, as some witnesses claimed, that without the mishaps that adversely affected the operation of the railway at vital times, BR may have been viable in the medium to long term.⁴³ However, its ongoing viability was at best marginal, and the Committee must seriously question the government's decision to expend a total of \$5.7 million of taxpayers' monies on a project that failed.

4.44 It is also significant that the major grants provided to BR (\$5 million from the Centenary of Federation Fund and \$600,000 from the RPP) were not processed through the relevant area consultative committee. The Committee did not receive sufficient evidence about the Centenary of Federation grant for it to determine whether the usual processes for grants under that program were followed. In relation to the latter grant, however, the evidence is that the decision to make the grant was made at the political level. The GCRACC was not involved and DOTARS was only informed of the grant on the same day that the Minister informed the voluntary administrator.

4.45 In making this ultimately futile grant of \$5.7 million to a project in a Government-held electorate it is clear that the government bypassed its own normal procedures for the administration of the RPP. It is therefore reasonable to conclude that the grant was made for political purposes.

43 See, for example, Mr Gillow, *Committee Hansard*, 25 February 2005, p. 89.

Chapter 5

Tumbi Creek

Introduction

5.1 On 24 June 2004 and 11 July 2004 then Parliamentary Secretary De-Anne Kelly approved two Regional Partnerships Program (RPP) grants to Wyong Shire Council for dredging work at the mouth of Tumbi Creek. Together these grants totalled \$1.496 million.¹

5.2 The grants received much media attention in late 2004 and early 2005. Questions were asked in both houses of the federal parliament regarding the probity of the grants and approval process. The Committee inspected Tumbi Creek mouth and the proposed dredge channel on 24 February 2005 and heard evidence from relevant parties at a public hearing at The Entrance on the same date.

5.3 This chapter examines the Tumbi Creek dredging project grants. It briefly describes the background and reasons for the proposed dredging and sets out the evolution of the project proposal. The chapter then examines the grant applications, assessment and approval process, including the roles of relevant key stakeholders.

5.4 The examination gives rise to a number of concerns about the administration of the RPP program, which are discussed throughout the chapter. Such concerns include: the appropriateness of the Tumbi Creek dredging grants according to the published program guidelines; the inadequacy of the grant applications; circumvention of the ACC review process; availability of alternative sources of funding; and probable political influence to expedite the assessment of the grants.

Background

5.5 Tumbi Creek is located within the jurisdiction of the Wyong Shire Council (the Council), on the New South Wales Central Coast. The creek is one of four freshwater courses entering into the Tuggerah Lakes.² Management of the lakes system has long been a priority for the region, with \$13 million allocated to lake restoration work by the New South Wales government in 1988.³ Tumbi Creek mouth itself has been dredged on three previous occasions, in 1974, 1986 and 1995.⁴

1 DOTARS, Revised RPP tables, received 11 May 2005.

2 Wyong Shire Council, *Snapshot of the Tuggerah Lakes Estuary Management Study*, February 2005, p. 5.

3 Councillor Graham, *Committee Hansard*, 24 February 2005, p. 4.

4 Mr Cathers, Director, Engineering Services, Wyong Shire Council, *Committee Hansard*, 24 February 2005, p. 12.

5.6 Siltation around creeks and inlets is the result of natural processes of erosion and deposition that occur in all estuarine environments.⁵ Mr John Asquith, Chair of the Central Coast Community Environmental Network, told the Committee that 'closure of these types of channels and their reopening in storm conditions is a natural cycle'.⁶ In the case of Tumbi Creek, Mr Asquith explained that sediment build up had been made worse by human activity. For example, increased population around the lake has increased the nutrient levels in the lake environment, contributing to build up of weeds and therefore the blocking of the creek mouth.⁷ Documents provided to the Committee by Wyong Shire Council also state that, 'the level of development in the catchment had increased both the volume and velocity of stormwater flows in the creek, leading to erosion and instability of sections of the creek banks and particularly the creek bed'.⁸

5.7 As a result of sediment build up, in late 2000 the entrance to Tumbi Creek became blocked, resulting in NSW Waterways removing navigation markers to the channel and closing it to boating access. At the same time, the Council closed the boat ramp at Tumbi Creek, with plans to improve an alternative boat ramp at Saltwater Creek.

Evolution of the project proposal

5.8 The proposed dredging project, put forward for grants under the RPP, is the culmination of a long history of proposals and research into options for handling siltation at Tumbi Creek mouth. A brief overview of this history is canvassed here.⁹

5.9 In response to community concerns, the Council considered the state of the creek in January 2001 and resolved to seek approval for minor excavation of the creek mouth channel. The New South Wales Department of Land and Water Conservation (DLWC) gave approval for this dredging work in August 2001. However, by that time the Council no longer considered minor dredging a viable option, due to the increased siltation which had occurred in the intervening period and further concerns about water quality and potential flooding.

5.10 In September 2001 the Council resolved to pursue a more extensive dredging option. This option involved dredging a new channel and spreading the dredge spoil

5 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004, p. 1.

6 *Committee Hansard*, Thursday 24 February 2005, p. 74.

7 *Committee Hansard*, Thursday 24 February 2005, p. 74.

8 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004, p. 2.

9 Chronology compiled from Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004, pp 1-9.

across the lake bed. The estimated cost of this proposal was \$300,000. Various studies, information gathering exercises and negotiations were subsequently conducted in order to meet concerns raised by the *Review of Environmental Factors* associated with the proposal and to meet dredge licence requirements.¹⁰

5.11 Eventually, more than two years later, all matters had been resolved and in March 2004 the DLWC issued the Council with a dredging licence and concurred that dredging could commence.

5.12 In the intervening period, community concerns had been levelled at the proposal to dispose of the dredge spoil across the lake bed. Mr Ken Ticehurst, Federal Member for Dobell, addressed the Council on 10 December 2003 offering \$340,000 of federal funding towards the dredging, conditional on the dredge spoil being taken off site rather than spread across the lake. The offer was also conditional on the state government and the Council providing matching funding.¹¹

5.13 On 10 March 2004, one week after receipt of the dredging licence, the Council considered a rescission motion relating to the dredging and resolved not to proceed with the option to spread the dredge spoil across the lake bed. The Council called for a report on alternative options for opening the mouth of Tumbi Creek and the associated costs.¹²

5.14 Throughout this period, Mr Ticehurst continued to take an active interest in the dredging of Tumbi Creek and lobbied Council members to adopt a dredging option which involved disposing of the spoil off site. In a letter of 10 March 2004 to Cr Greg Best, then Mayor of Wyong Shire, Mr Ticehurst said:

In conclusion I would hope that Councillors support the rescission motion as our environment and our lakes are too precious to be dealt a blow by dumping 15,000 cubic meters of sludge and silt onto the lake floor.¹³

The RPP proposal

5.15 Ten alternatives for clearing the blocked creek mouth were put forward to the Council in a preliminary report. Five of these options involved again dredging the

10 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, September 2001.

11 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004, p. 8.

12 *Committee Hansard*, 24 February 2005, p. 6

13 Mr Ticehurst MP, Federal Member for Dobell, correspondence, 10 March 2004, in answers to questions on notice received 4 July 2005.

channel created by previous dredging works; the other five involved dredging a new channel on an alignment closer to the creek's natural watercourse.¹⁴

5.16 Committee members explored with Mr David Cathers, Council's Director of Engineering Services, the 'preliminary' nature of the report:

Senator O'BRIEN—Mr Cathers, can you explain what the report means when it says that the options are 'based on preliminary data and would require further investigation'?

Mr Cathers—Yes. ...The reason why I included the comments that were based on preliminary information was that it was developed to, I guess, a concept level. We had some preliminary survey levels taken and the information was not good enough at that point in time to include in contractual documents.¹⁵

5.17 The Council considered the report at a meeting on 9 June 2004 and resolved to adopt Option 1, which involved dredging the creek on the new alignment and disposing of the spoil off site at a landfill tip. In the report, this option was ranked third of the ten proposals. Mr Cathers explained that the ranking was based on 'ecological impacts, social impacts etc'.¹⁶ He said that the ten new proposals were not ranked against the rescinded proposal, which had already been ruled out by the Council. Mr Cathers told the Committee that while the selected option was not, due to cost considerations, ranked the highest it was expected to have a longer impact than the cheaper options.¹⁷

The RPP applications

5.18 The first RPP application put forward by the Council in relation to Tumbi Creek was submitted the next day, 10 June 2004, without further development of the newly adopted dredge proposal.¹⁸ The application was predicated on a tri-funding

14 Wyong Shire Council, 'Appendix 5 Wyong Shire Council Report – June 9 2004 Dredging Options', in *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumbi Creek, Killarney Vale*, December 2004.

15 *Committee Hansard*, 24 February 2005, p. 6.

16 *Committee Hansard*, 24 February 2005, p. 6.

17 *Committee Hansard*, 24 February 2005, p. 7.

18 The Committee notes that, as with other RPP and SRP projects, it experienced significant difficulty obtaining correct date information regarding this funding application. The Committee was originally informed by DOTARS that applications made in relation to Tumbi Creek were submitted on 24 June 2004 and 11 July 2004 and approved on the 24 June 2004. After questioning by Committee members, questions raised in the House of Representatives and investigation by DOTARS, the Committee was advised that the first application was received on 10 June 2004 and approved on 24 June 2004 and that a further application seeking additional funds was received on 25 June 2004, formally confirmed by the Council on 1 July 2004 and approved on 11 July 2004.

arrangement, with the Council, state and federal governments each contributing \$680,000.

5.19 Mr Ticehurst had encouraged the Council to apply for RPP funding, inferring that the application should be lodged quickly. In a media release of 8 June 2004, Mr Ticehurst said:

The funds for Tumbi Creek are available in the *Regional Partnerships* programme of the Federal Department of Transport and Regional Services.

The appropriate application from Wyong Shire Council is awaited by the Department of Transport and Regional Services. Subject to Wyong Council resolving on Wednesday to formally apply, an application will be lodged with the Department of Transport and Regional Services.¹⁹

5.20 Unlike other RPP applications prepared by the Council, the Tumbi Creek dredging application was not prepared in consultation with the relevant ACC.²⁰ Instead the application was submitted directly to DOTARS' regional office. Mr Cathers told the Committee that he had been advised to send the application directly to DOTARS by Mr Graeme Hallett, an adviser to the Hon Jim Lloyd, Minister for Local Government, Territories and Roads.²¹

5.21 Subsequently, on 11 June 2005, DOTARS sent the application to the ACC for comment.²² However, the ACC's comments were not provided to the minister for consideration before the grant was approved. Dr Gary Dolman, Assistant Secretary, said:

There was an issue with this particular project, unfortunately, where the ACC advice was late in coming. So in this case the ACC recommendation was not provided.²³

5.22 The application was provided to the ACC on 11 June 2004. The Committee was informed that the ACC's comments were entered into TRAX on the 22 June 2004, that is, seven working days later, but were not stored successfully.²⁴ The ACC's comments were then emailed to DOTARS two days later on 24 June 2005.²⁵ The covering email sent to the ACC with the application clearly indicates that these were adequate response times:

For those projects that were developed in consultation with the ACC, comments should be sent to the Department within 10 working days.

19 Mr Ticehurst MP, *Media release*, 8 June 2004.

20 *Committee Hansard*, 24 February 2005, p. 41.

21 Mr Cathers, *Committee Hansard*, 24 February 2005, p. 41.

22 *Committee Hansard*, 24 February 2005, p. 93.

23 *Committee Hansard*, 24 February 2005, p. 107.

24 Dr Dolman, Assistant Secretary, *Committee Hansard*, 24 February 2005, p. 93.

25 *Committee Hansard*, 24 February 2005, p. 93.

However, ACCs are not required to meet this timeframe for projects they have not been consulted on.²⁶

5.23 Dr Dolman told the Committee that Parliamentary Secretary Kelly's office had twice requested that the department 'look at whether the project could be given some priority'.²⁷

5.24 DOTARS provided conflicting evidence as to when the grant was approved. Following the detection of errors in information already revised by the department, discussed in Chapter 1, DOTARS Secretary Mr Michael Taylor informed the Committee that the first application in relation to Tumbi Creek was approved on 24 June 2004.²⁸ This date was consistent with the information provided in revised tables. However, in answers to questions on notice later supplied to the Committee, Dr Dolman provided contradictory evidence, stating that 'Mrs Kelly approved the first grant for \$680,000 (GST incl) on 23 June 2004'.²⁹

5.25 Whether the grant of \$680,000 was approved on the 23 or 24 June 2004, this was a remarkably short response time when compared with other RPP projects.³⁰ A letter advising the Council of approval of the grant was sent from the parliamentary secretary on 2 July 2004.³¹ The funding was formally announced in a press release from Mr Ticehurst on 5 July 2004.

5.26 On the 25 June 2004, the Council submitted a second RPP application, this one directly to DOTARS' national office, seeking \$1.3 million. The covering letter accompanying the application stated:

Council is now seeking financial support from the Federal Government for two-thirds of the estimated cost of the project (\$1.36M), on the basis that the NSW Government has made no provision for funding of this work.³²

5.27 Wyong Shire Mayor Brenton Pavier told the Committee that he had discussions with Mr Hallett prior to the Council seeking the additional funding. He described the nature of the discussion as follows:

Mayor Pavier—It was to properly reflect, which was probably well known in the community, that the state government was not going to come to the

26 Mr Burdekin, DOTARS Northern NSW Regional Office, correspondence, 11 June 2005, in Central Coast ACC minutes and recommendations.

27 *Committee Hansard*, 24 February 2005, p. 99.

28 Mr Taylor, correspondence, 10 February 2005.

29 Dr Dolman, answers to questions on notice, received 23 September 2005, p. 4.

30 DOTARS, Revised RPP tables, received 11 May 2005.

31 Parliamentary Secretary Kelly, correspondence, 2 July 2004, in answers to questions on notice received 4 July 2005.

32 Mr Long, Manager, Open Space and Recreation, Wyong Shire Council, correspondence 25 June 2005, in answers to questions taken on notice received 10 March 2005.

party on its particular one-third and that we would try and seek an additional third.

Senator CARR—And what did Mr Hallett tell you?

Mayor Pavier—I think he said that he would go off to his various colleagues or take those representations back to whomever.³³

5.28 As discussed later in this chapter, state government funding was available for the dredging of Tumbi Creek, but not for the option which by this stage was preferred by the Council.

5.29 The second RPP application, for \$1.3 million, was not sent to the ACC for consideration.³⁴ This application was almost identical to the first, apart from the amount of federal money sought, and absence of state partnership funding. Presumably, the ACC's original comments therefore remained relevant. DOTARS witnesses refused to inform the Committee whether or not the ACC's advice on the first application was given to the minister to consider before approving the second grant:

Senator CARR—Was it applied to the second application on the 25th?

Dr Dolman—I think we are getting into the area of advice to ministers.³⁵

5.30 The additional grant of \$680,000 was approved on 11 July 2004 and announced by the Prime Minister, the Hon John Howard, during a visit to Tumbi Creek on 26 August 2004 (three days before the federal election was called).³⁶ In a letter of 26 August, Parliamentary Secretary Kelly informed the Council that the additional funding had been approved.³⁷

5.31 The Committee was first led to believe by Mayor Pavier that neither he nor other members of the Council were aware of the Parliamentary Secretary's decision to approve the additional funding prior to receipt of her written advice.³⁸ However, documents later provided to the Committee show that on the 9 August 2004, Mr Hallett sent an email to a number of individuals including Mayor Pavier and Mr Ken Ticehurst, stating the following:

Dear people

At 9am on 26 August the full measure of Tumbi Creek funding will be announced at the site.

33 *Committee Hansard*, 24 February 2005, pp 30-31.

34 Mr Hale, Chairman, Central Coast ACC, *Committee Hansard*, 24 February 2005, p. 54.

35 *Committee Hansard*, 24 February 2005, p. 107.

36 Wyong Shire Council, *Reports to the ordinary meeting of council*, February 23 2005, p. 32.

37 Parliamentary Secretary Kelly, correspondence, 26 August 2004, in answers to questions on notice received 10 March 2005.

38 *Committee Hansard*, 24 February 2005, p. 38.

I recommend that we must make this announcement a little more professional than just standing on the jetty, speaking and moving off asap.

With a minister and parliamentary secretary present we must offer some sustenance and time to meet with the media and local residents.

I agree with Brenton that we should not seek WSC expenditure on this.

Therefore a Dobell campaign should fund a simple barbeque breakfast with juice, tea and coffee. We can either hire equipment or use a supporters.

We will punt on the fact that it won't rain.

Finally I recommend that an addressed letter of invitation go to residents who live near by the creek to come and hear an "important announcement" and share breakfast with Ken, the Mayor and Ministers.

Please advise your views so we can bed this down.

thanks

Graeme³⁹

5.32 As Mayor, Councillor Pavier was fully aware of the second grant application made by Wyong Shire Council, including the quantum of additional funding sought. Given that approval of the first grant had already been announced, and that Mr Hallett's email specifically referred to the 'full measure' of funding for Tumbi Creek, the Committee considers that Mayor Pavier was aware of the decision to approve additional funding prior to the parliamentary secretary's written advice.

5.33 The above email communication, in advance of formal advice regarding the additional grant approval, indicates the high degree of collaboration between the offices of the Mayor, the local federal member and the Minister for Local Government, Territories and Roads in relation to the Tumbi Creek RPP applications. As mentioned in the introduction to this report, a key term of reference for this inquiry concerns the nature and extent of the roles of various stakeholders, including politicians and their advisers, in the process of selecting successful applications. The Committee was therefore concerned to explore with witnesses the nature of the collaboration between various political stakeholders in relation to the Tumbi Creek project.

5.34 Mayor Pavier's statement, in sworn evidence, that he was unaware of the decision to approve the additional funding prior to receipt of written advice from the parliamentary secretary forestalled further questioning by Committee members. This effectively obstructed the Committee's examination of this issue at that time.

39 Mr Hallett, correspondence 9 August 2004, in answers to questions on notice, received 4 July 2005.

State funding

5.35 Concurrent with the above exchanges regarding federal funding for the dredging work, the Council was in communication with relevant state departments regarding state funding.

5.36 Evidence to the inquiry shows the New South Wales Government was committed to contributing funding towards the dredging of Tumbi Creek in line with the Council's original proposal. Mr Kerry Yates, Council's General Manager, said:

As recently as this month or last month, we received a letter from Grant McBride, the member for The Entrance, confirming that the money was still available for the original scheme – not for the scheme that is now favoured.⁴⁰

5.37 A copy of this letter provided to the Committee sets out the state government's position:

I am pleased to advise that following further representations to the Minister for Infrastructure and Planning, the Hon C Knowles, the State Government has re-committed to fund in equal partnership with Council the dredging of Tumbi Creek in accordance with council's original proposal, for which a licence had previously been issued by the Department of Lands.

As I have previously stated, the Federal funds committed to this project would be better expended on catchment management issues upstream rather than just treating the symptoms of poor catchment management over and over again.⁴¹

5.38 The state government did not support the revised proposal involving removal of the dredge spoil off site and was not prepared to co-fund this option. The state government's position on this matter was described in a letter from the Hon Craig Knowles to the Hon Grant McBride:

Committing to equally share funding for investigations and works estimated at \$2 Million without fully examining the alternatives, without having regard to other state-wide priorities and without having any input into the recommended option is not exercising due diligence with regard to the expenditure of public monies. I am also concerned that the council would consider the expenditure of over \$2 million on a remedial action that may need to be repeated in a few years and at more than one location.⁴²

40 *Committee Hansard*, 24 February 2005, p. 23.

41 Mr McBride MP, New South Wales Member for The Entrance, Minister for Gaming and Racing and Minister for Central Coast, correspondence, 7 February 2005, in answers to questions on notice received 10 March 2005.

42 Mr Knowles MP, New South Wales Minister for Infrastructure and Planning and Natural Resources, correspondence, undated, in answers to questions on notice received 10 March 2005.

Possible reallocation of grant monies

5.39 Heavy rain on 1 October 2004 flushed some sediment from the mouth of Tumbi Creek, making the passage navigable for small boats. A number of questions in the House of Representatives in February 2005 focussed on whether or not the Council subsequently sought to reallocate some of the RPP grant to other works upstream, and the advice given to the Council in that regard. In essence, these questions asked whether Minister Lloyd's office had advised the Council not to disclose the true state of the creek mouth so as to continue to receive the allocated federal funding, and by so doing, to defraud the Commonwealth.⁴³

5.40 The Committee explored with Council witnesses the matter of the possible reallocation of the RPP grant money. Councillor Robert Graham, Deputy Mayor, told the Committee:

I am not an engineer. I did not know how much spoil had been washed out, so the question I was asking the council was, 'How much has been taken out? A certain amount of money has been promised. Do we need all that money now and, if there is any left over – any residue – can we use it up the creek?' ...I asked whether there was going to be any residue from the money from the federal government and, if so, whether there was any chance that we could use some of that upstream to back up the river banks to stop the silt coming down...We got the answer back that there was only 1,000 cubic metres, so it is probably pretty much irrelevant.⁴⁴

5.41 Advice on the impact of the storms on the creek mouth was given to the Council in a presentation by Mr Cathers on 24 November 2004. Mr Cathers concluded that the heavy rainfall of 1 October 2004 moved about 1,000 cubic metres of silt, however the RPP funded project involved dredging 15,000 cubic metres and therefore further work was required. The presentation also noted that DOTARS had requested an update of the Council's intent following the opening of the creek mouth.⁴⁵

5.42 DOTARS' request appears to have been initiated by an email from Mr Hallett who, following conversations with Mayor Pavier, requested a statement from DOTARS about the conditions applying to the announced RPP grant. Mr Hallett's email said:

...I require a clear statement on behalf of the Commonwealth by DOTARS of the conditions that apply to the announced funding for the agreed works at Tumbi Creek for the dredging and removal to land fill of the spoil in Tumbi Creek.

43 *House of Representatives Hansard*, 9 February 2005, pp 47-54.

44 *Committee Hansard*, 24 February 2005, p. 20.

45 Mr Cathers, PowerPoint presentation to the Council meeting of 24 November 2004, in answers to questions on received 10 March 2005, and transcript of presentation tabled in the House of Representatives, 9 February 2005.

The commitment by the Howard Government to the electors of Dobell in partnership with Wyong Council is non negotiable. It is the position of Mr Ticehurst that the money be delivered as agreed for the works in the schedule of the agreement under *Regional Partnerships*.

The confirmation of the strict conditions of our partnership with Wyong Shire Council under this programme should therefore be stated for the information of Wyong elected councillors and senior officers, so there can be no doubt about the way forward to deliver the commitment on Tumbi Creek.⁴⁶

5.43 In correspondence to Council officers following the October storm, DOTARS' regional office staff had advised that 'if there is a cost saving, we may be able to re-direct funding to works consistent with the broader objectives of the project'.⁴⁷ In DOTARS' formal response, Dr Dolman stated that the funding allocated was for specific outcomes and that any changes to the project objectives would require a 'formal request by the Council for the consideration of the Parliamentary Secretary, Mr John Cobb'.⁴⁸ DOTARS' response also stated:

The Department is currently waiting for advice from Wyong Council regarding the implications of the recent removal of the blockage at the mouth of Tumbi Creek on the dredging project. A revised project schedule and costing will be negotiated with the Council.⁴⁹

5.44 DOTARS sought to ensure any savings created by the partial clearing of the creek were appropriately returned to the Commonwealth. Dr Dolman told the Committee:

The first thing we did is that we replied to that email which was passed on to council to make it clear that the objectives, or the outcomes, of the project were what we were funding and that we would not consider funding outside the project which had been agreed without a new application. We also made it clear that our expectation was that advice on any reduction in costs would be provided by the council back to DOTARS. We also indicated in that email that, given that we were paying two-thirds of the project because the state government had not contributed, our expectation was that any reduction in costs would initially come from our component of the project until a fifty-fifty situation had been reached.⁵⁰

46 Mr Hallett, correspondence, 17 November 2004, in answers to questions on notice, received 4 July 2005.

47 Mr Petrovsky, correspondence, 15 November 2004, in answers to questions on notice, received 4 July 2005.

48 Dr Dolman, correspondence, 22 November 2004, in answers to questions on notice, received 4 July 2005.

49 Dr Dolman, correspondence, 22 November 2004, in answers to questions on notice, received 4 July 2005.

50 Dr Dolman, *Committee Hansard*, 24 February 2005, p. 102.

5.45 While DOTARS' formal response regarding the conditions on the grant appears appropriate, the covering email sent by Mr Hallett when providing the advice to Wyong Shire Councillors raises serious concerns. Mr Hallett stated:

Any changes means [sic] less federal money, so the Wyong officials should keep their counsel on this if we want the total allocated by the PM for Tumbi Creek.⁵¹

5.46 Committee members questioned Mayor Pavier about this advice:

Senator O'BRIEN—Mr Mayor, when Mr Hallett told you in an email on 22 November that any changes meant less federal money so the Wyong shire officials should keep their counsel about the state of the creek mouth, what did you understand that to mean?

Mayor Pavier—I think that follows on with regard to some advice by DOTARS as well. I think that it is part and parcel of the email, and my understanding of that was that there is a due process that needs to be undertaken and you need to follow that process. Akin to drawing this conclusion, we have a development application process, and if there are negotiations between staff and an applicant for a development application that keeps changing, we would have a section 96, which deals with modifications. If you keep changing an initial application, staff would consider it to be a fresh application. Certainly in my mind, it was 'stick to your guns' and I was certainly of that view as well.⁵²

5.47 That Mayor Pavier chose to approach a ministerial adviser, rather than the funding department, for advice on the impact of the creek's partial clearance on the RPP grant further demonstrates the high degree of political collaboration evident in relation to this particular grant. That the mayor also thought it more appropriate not to alter ('stick to your guns') the terms of the Council's application despite changed circumstances than to follow the department's advice raises concerns about his approach to using public funding.

5.48 Mr Hallett's advice that Wyong officials should 'keep their counsel' despite the changed circumstances of the project was also highly inappropriate and possibly amounts to misconduct. Apparently with no authority from the relevant minister, Mr Hallett countermanded the department's advice, which stated that the department required advice from the Council as to the impact of the storm on the project, with a revised project schedule and costing then to be negotiated.

5.49 In a statement tabled in the House of Representatives on this matter Mr Hallett attempted to justify his advice in the following manner:

My clear intention, as indicated in the totality of the e/mail correspondence was to provide proper advice, having been asked by the Mayor, to WSC

51 Mr Hallett, correspondence, 22 November 2004, in answers to questions on notice, received 4 July 2005.

52 *Committee Hansard*, 24 February 2005, p. 36.

[Wyong Shire Council] about the future of the project if WSC decided to change the use of the designated RP funds.

I further was aware from the Mayor that during November 2004 that WSC officers were undertaking engineering surveys of the Tumbi Creek mouth to determine if the creek was now clear and flushed after the rains.

My intent was for WSC to provide to the Australian Government a professional engineering survey report as to the true state of the amount of spoil still to be removed after the rain.⁵³

5.50 It is difficult to reconcile Mr Hallett's email advising Council officials to 'keep their counsel on this' with the post hoc justification contained in his statement. Mr Hallett was in effect encouraging the Council to cover up a development that would have had an important bearing on a funding decision by the Commonwealth. Rather than acting appropriately to protect public money, Mr Hallett was clearly more intent on protecting the maximum amount of money that the Council could obtain.

5.51 Nonetheless, in response to questions in the House of Representatives regarding Mr Hallett's emails, Minister Lloyd said:

Firstly, I did not see the emails in question until yesterday afternoon when they were brought to this House. Secondly, neither my chief of staff nor I were consulted about the text of the emails before or after they were sent. Thirdly, I do not think that the Leader of the opposition checks a draft of every single email that is sent by his staff—and I am sure that no other member of parliament is in a position to check every email that is sent from their office.

Fourthly, while I have spoken to the staff member concerned and have indicated to him that the wording of the emails was inappropriate, the House should bear in mind that he sent with that two-line covering email the department's advice which made clear the purpose for the grants, that if the purposes of the grant were not to be met then that would affect the level of funding and that the project would not be revised to include outcomes beyond those agreed by Mrs Kelly without a formal request by council and reconsideration by the parliamentary secretary, the Hon. John Cobb. Mr Hallett has provided me with a statement on this matter which puts his handling of the issue into its proper context.⁵⁴

5.52 By limiting his censure of Mr Hallett's conduct to inappropriate 'wording' in the email, the minister's statement attempts to deflect attention from the intention of Mr Hallett's action which was to override the attached departmental advice. Mr Hallett's conduct in this instance also goes to wider concerns about the unchecked growth in the power of ministerial staffers, particularly the trend of staffers usurping

53 Mr Hallett, *Statement by Graeme Hallett on Tumbi Creek and the Regional Partnerships Grant*, House of Representatives tabled document, 10 February 2005.

54 Minister Lloyd MP, Minister for Local Government, Territories and Roads, *House of Representatives Hansard*, 10 February 2005, p. 46.

the role of departments by issuing directions personally on government programs and acting inappropriately as 'de facto assistant ministers'.⁵⁵

5.53 While Mr Hallett sought and passed on official departmental advice, the Committee considers that his actions in countermanding that advice constitute interference, if not outright subversion, of due process.

Issues relating to the administration of RPP

5.54 The application, assessment and approval process for the Tumbi Creek dredging grants demonstrates that proper administration of the RP program has been perverted for this project. Issues raised by this process include the appropriateness of the project for RPP funding given the published program guidelines, inadequacies in the funding applications, sidelining of the ACC assessment process and political influence to expedite the grant.

Appropriateness of the project for RPP funding

5.55 The aims of the dredging work raised several concerns about the eligibility of the project for RPP funding, which were the subject of lengthy discussion at the Committee's hearing. These concerns included whether the project provided value for money given the size of the grant sought, the limited number of direct beneficiaries and lack of project sustainability. Also of concern, given the published program guidelines, were the lack of necessary licence approvals required for the project and the possibility of alternative sources of funding. These concerns are discussed below.

Aims of the project

5.56 The RPP funding applications submitted by the Council describe the rationale for the project as follows:

- To return a valuable recreation asset to former functionality by re-opening the creek channel for boats
- To provide improved creek flushing and water quality, allowing swimming in the creek
- To reduce potential for flooding of nearby houses⁵⁶

5.57 Witnesses for the Council emphasised that flood mitigation was of primary concern:

Councillor Graham—One of the problems with it being blocked up is that the fish cannot get upstream to breed. Another, very important, thing is that

55 See Senate Finance and Public Administration References Committee, *Staff employed under the Members of Parliament (Staff) Act 1984*, October 2003, particularly chapter 2.

56 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004 in Central Coast ACC minutes and recommendations, and Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

there are about 10 or 20 homes that could be flooded if there were a big downpour...I have asked on several occasions in council whether if that did flood we would have a duty of care to open it up without getting all the permissions to alleviate the flooding.

Mayor Pavier—Certainly in my mind, if you want my tuppence worth, is that the flood situation for those 16 or 18 homes is paramount and recreational boaters would probably carry less weight. People swimming, quality of water—those are lesser weight factors. But certainly in my mind the flooding issue is paramount.⁵⁷

5.58 Mr Cathers clarified the extent of the flood risk created by the blocked creek, informing the Committee that 16 properties were potentially threatened in a one-in-100-year flood event. Of these, five houses were at risk of flood impact in habitable areas and a further three risked impact in non-habitable areas (such as laundries or garages).⁵⁸

5.59 The Committee received mixed evidence regarding the recreational use of the creek. As noted above, improved water quality to allow swimming in the creek was stated in the Council's application as one of the reasons for the dredging. However, Mr John Asquith, Chairman of the Central Coast Community Environment Network (CCCEEN), presented the view that the dredging would not bring the creek water quality up to the recreational standard required for swimming. Mr Asquith said:

...From what the council have told me, the removal of the spoil will not bring the water quality up to the recreational water guidelines, the ANZECC guidelines.⁵⁹ So it will improve water quality, there is no doubt about that, because there will be some dilution, but they have never claimed, in my discussions with them, that it will get it up to recreational standards.⁶⁰

5.60 The Committee also heard that Tumbi Creek was not a high use area of the Tuggerah Lakes:

CHAIR—...What would you say the level of usage of the creek is, particularly when it is dredged?

Mr Asquith—It is not particularly high. I have canoed along the creek a few times to have a look at it, and there have been some improvement works done to stabilise part of the banks. But there is not a lot of water usage, you might say—recreational craft or swimming. The more common activities are probably people looking at the creek from their houses or from parks, bike riding through there and feeding the ducks which, in itself, creates a lot

57 *Committee Hansard*, 24 February 2005, p. 11.

58 Mr Cathers, *Committee Hansard*, Thursday 24 February 2005, pp 13-14.

59 Australian and New Zealand Environment and Conservation Council (ANZECC).

60 Mr Asquith, Chairman, Central Coast Community Environment Network, *Committee Hansard*, 24 February 2005, p. 73.

of the water quality problems that occurred in the creek just there. It is not a high usage area of Tuggerah Lakes from what I have seen.⁶¹

5.61 The Committee also received mixed evidence regarding environmental reasons for the dredging. Mr Cathers told the Committee that improving water exchange, by allowing the creek to flow, was important for a number of ecological considerations including fish breeding.⁶² However, Mr Asquith told the Committee that the dredging was not necessary for environmental reasons. He said:

In terms of the impact on wildlife, fish and what have you, from my understanding of it and the explanations that I have had given to me, the closure of these types of channels and their reopening in storm conditions is a natural cycle. With regard to whether that is good or bad for wildlife, it will just swing the balance one way. One lot will gain like it is and another lot will gain when it is opened up. So that is just an ecological process.⁶³

5.62 Mr Asquith also stated that there was mixed scientific evidence about the environmental impact of spreading the dredge spoil across the lake bed.⁶⁴ He explained that CCCEN was against disposing of the spoil in the lake, not because of compelling scientific evidence about the environmental impact but because of the poor precedent and example it would set.⁶⁵

Value for money and sustainability

5.63 The Council's applications for RPP funding acknowledged that the project would not be self-sustaining:

The re-opening of this channel to improve recreational opportunities, reduce flooding potential and improve water quality is required about once or twice a decade from historical records.⁶⁶

5.64 During the hearing, Mr Cathers informed the Committee that following the proposed dredging, Tumbi Creek mouth would need to be dredged again within seven to ten years.⁶⁷

5.65 The Committee was concerned about the allocation of such a large grant to a short-term fix with limited beneficiaries, rather than a long-term solution, particularly

61 *Committee Hansard*, 24 February 2005, pp 70-71.

62 Mr Cathers, *Committee Hansard*, Thursday 24 February 2005, p. 14.

63 Mr Asquith, *Committee Hansard*, 24 February 2005, p. 74.

64 *Committee Hansard*, 24 February 2005, p. 78.

65 Mr Asquith, *Committee Hansard*, 24 February 2005, p. 78.

66 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004 in Central Coast ACC minutes and recommendations, and Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

67 Mr Cathers, *Committee Hansard*, Thursday 24 February 2005, p.12.

given that sustainability is an important feature of the RPP project viability assessment criteria. Committee members pursued these issues with Council witnesses:

Senator CARR—...It may well be, as people have put to us, that this is a very important project for the 16 properties on the creek and the eight houses that may be subject to flooding in a 100-year event. It is obviously very important to them but, given the amount of money involved, isn't there a question of priority for the lake management? Isn't that an issue that ought to be considered in the granting of moneys of this dimension?

Mayor Pavier—I can only reaffirm the council's commitment here. We are spending \$3 million annually on the lakes and we have resolved as a council, unanimously, to expend \$680,000 of our own general revenue fund towards this and we rate it highly. I am on record now saying that it is a high priority.⁶⁸

5.66 Mr Cathers advised the Committee that works were required upstream to provide longer-term solutions, but these had been given a lower priority in terms of applications for funding:

The problem we have got there requires a fix now, whereas the work we would be doing upstream would be providing a solution to a longer term problem. So it is a question of which do you deal with first. We would be seeking funding for the works upstream, in addition to the council expending its own money.⁶⁹

5.67 Mr Asquith expressed the view that the funding could achieve better value for money spent on other lake priorities. The following exchange is relevant:

Mr Asquith—From the position of the environment network, if there is \$2 million going to be spent on the lake—and we would be delighted to have \$2 million spent on improving various things around the lake—we would like to see it spent on the priorities, and they have been identified to a large extent. To me, the priorities are those things where you get the best value for the dollars you have got, where you get the best water quality and the best improvements.

Senator O'BRIEN—Does that mean dealing with issues upstream rather than at the mouth?

Mr Asquith—Primarily dealing with issues upstream but also a lot of foreshore issues. On the western side of the lake there are a number of groups working there where there are a lot of stormwater outlets, a lot of erosion of the lake foreshore and so on. They could use \$2 million for a better long-term effect.⁷⁰

68 *Committee Hansard*, 24 February 2005, p. 27.

69 *Committee Hansard*, 24 February 2005, pp 12-13.

70 *Committee Hansard*, 24 February 2005, p. 77.

5.68 In light of the evidence to the inquiry, Committee members questioned DOTARS witnesses as to whether the dredging project met the RPP guidelines:

Senator O'BRIEN—Did the original application meet all the program guidelines?

Dr Dolman—Yes, they were assessed and it was found that they did meet all those guidelines.

Senator O'BRIEN—So it was value for money? Or don't you assess that?

Dr Dolman—As I said the other day in Canberra, the way that we assess that is to look at three specific things: outcomes for the community, partnerships and ongoing viability. It met all of those things and, yes, it was assessed as being value for money.⁷¹

5.69 It is difficult to reconcile DOTARS' assessment with the evidence provided to this Committee, which shows that the dredging project has a limited number of beneficiaries and lacks a sustainable outcome. While undoubtedly of short-term benefit to those living in the direct vicinity of Tumbi Creek, the Committee considers this to be a limited outcome for a substantial grant of almost \$1.5 million.

Licence approvals

5.70 The published RPP guidelines state:

Project proposals that can not obtain or have not yet obtained the relevant approvals or licences to progress will not generally be considered.⁷²

5.71 As noted in an earlier chapter, during the inquiry it became apparent that both this guideline and an earlier form of the guideline were published on DOTARS' website. The earlier version stated that 'projects that can not obtain or that are in the process of obtaining the relevant approvals or licences to progress' were not eligible for RPP funding.⁷³

5.72 While the Council was in receipt of a dredging licence for the works proposed initially, a licence had not been obtained for the dredging option proposed in the RPP applications, which involved removal of the spoil off site.⁷⁴ Council witnesses confirmed at the Committee's hearing that licences had not yet been obtained and the Council did not know if they would be granted.⁷⁵ According to the earlier version of the RPP guidelines, this circumstance would have made the Tumbi Creek dredging

71 *Committee Hansard*, 24 February 2005, p. 95.

72 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p.7

73 DOTARS, *Regional Partnerships Guidelines*, www.regionalpartnerships.gov.au/guidelines.aspx, accessed 12 August 2005.

74 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004, p. 11, in Central Coast ACC minutes and recommendations.

75 Mr Cathers, *Committee Hansard*, 24 February 2005, pp 7-8.

project ineligible for RPP funding. The Committee was therefore concerned to know when the change to the guideline was approved by the minister. DOTARS undertook to provide the Committee with this information but to date, the information has not been provided. This is unsatisfactory and given the lengthy delay in responding, the Committee can only conclude that there is no adequate explanation.

5.73 The Committee heard that a number of issues would need to be addressed by the Council before state approvals were granted. These included methods for handling and treating the spoil to address potential acid-sulphate soils and ensuring adequate protection for foreshore saltmarsh habitats during the dredge and spoil removal works. Saltmarsh habitats are listed as threatened ecological communities under the NSW Threatened Species Act.⁷⁶

5.74 The Committee was advised that under the funding agreement between DOTARS and the Council, money would not be provided for the project until the Council obtained all necessary licence approvals.⁷⁷ Dr Dolman described the funding approval as 'a decision in principle to approve the project' conditional on the relevant state approvals being obtained.⁷⁸

5.75 At a public hearing in August 2005, nearly a year after the announcement of the additional grant, the Committee was told that state licences had not yet been obtained and therefore a funding contract had not yet been signed. Committee members explored this situation with DOTARS witnesses:

Senator O'BRIEN—So Tumby Creek is coming to the point where we will either have to get the approval or the funding will have to be withdrawn.

Dr Dolman—That is essentially the case.

Ms Riggs—We will consider what advice we might give the minister about what his options might be.⁷⁹

5.76 Dr Dolman also noted that 'There is no set timetable written down in any program or documentation that talks about the time we would allow a project to try to meet the conditions'.⁸⁰ The Committee is concerned that latitude regarding project approval requirements has been deliberately incorporated into the RPP guidelines, with no consequent procedures for projects where licence approvals are not readily obtained.

76 Wyong Shire Council, *Review of Environmental Factors, Maintenance Dredging at the Mouth of Tumby Creek, Killarney Vale*, December 2004, p. 23.

77 Mr Cathers, *Committee Hansard*, 24 February 2005, p. 16.

78 *Committee Hansard*, 12 August 2005, p. 65.

79 *Committee Hansard*, 12 August 2005, p. 66.

80 *Committee Hansard*, 12 August 2005, p. 67.

5.77 Also of concern, the Committee was informed that the full costs of the dredging project could not be determined until the state government's licence approval requirements were specified. Mayor Pavier said:

It was always my desire that the funding arrangements would be equally split across the three spheres of government. When that did not occur, the federal government picked up the two-thirds component. My understanding, and it would always be my desire, is that if the costs were to blow out we would certainly want to go back before the federal government to keep that one-third to two-third ratio in place. Our revenue base probably does not allow us to continue exponentially with some blow-out figures. I am sure inflation and those sorts of things are factored in but, by the time we get state government approval for this process, I just cannot predicate the costs.⁸¹

5.78 The Committee considers it would be totally inappropriate for federal funding to be viewed as an available revenue source to fill cost overruns for this or any other RPP project. The Committee also cannot accept that any valid assessment of the value for money of this project can have been conducted when the total cost of the project remained unknown.

5.79 The Committee notes the Council's hesitancy to invest money developing the dredging option and obtaining state licences prior to obtaining a funding commitment. Mr Yates told the Committee:

It is certainly not unusual for us to be making grant applications based on preliminary information without detailed design, because it is pointless spending a lot of money on doing detailed design when a grant might not be obtained or council might or might not decide to go ahead.⁸²

5.80 The Committee is aware that the current RPP guideline provides some latitude regarding licence approval requirements. However, given the size of the grant involved and the potential impact on the project budget of obtaining and complying with license approvals, the Committee considers that further assessment and development of the dredging option should have been undertaken prior to the announcement of federal funding for this project.

5.81 Subsequent to the Committee's final hearing with DOTARS, on 2 September 2005 the Council received a licence from the NSW Department of Lands for dredging and offsite disposal. The licence specified that the Council must provide further information and justification as to why the larger channel, involving dredging of 15,000 m³ of spoil was required. Alternatively, the licence permitted the Council to proceed with the Department of Lands' preferred and less costly channel alignment, requiring dredge and removal of 5,000 m³.⁸³

81 *Committee Hansard*, 24 February 2005, p. 43.

82 *Committee Hansard*, 24 February 2005, p. 9.

83 Wyong Shire Council, *Reports to the Ordinary Meeting of Council*, 14 September 2005, p. 28.

Other funding sources

5.82 The published RPP guidelines state that the following projects are not eligible for funding:

Applications seeking funds that are, or could be perceived as cost shifting, that is substituting or duplicating funding from other sources including government and the private sector.⁸⁴

5.83 As discussed above, state government funding was committed for dredging at Tumbi Creek, but not for the option preferred by the Council. Evidence to the inquiry suggests that by allocating funding to an option not supported by the state government, this RP grant is inconsistent with state planning priorities. In a letter to Senator Ian Campbell regarding the original offer of \$340,000 of federal funding, contingent on off-site disposal, the Hon Craig Knowles, NSW Minister for Infrastructure and Planning and Natural Resources, said:

I do not support the redirection of RFMP [Regional Flood Mitigation Program] funds to this project ahead of effectively four prioritised floodplain management projects elsewhere in the State...

To redirect these funds would devalue the well managed and transparent process under which floodplain management projects are prioritised in conjunction with the Floodplain Management Authorities of NSW.

The current proposal, the result of three years of co-ordination between Council and the State Government, involves the development of stringent guidelines for procedures and monitoring of the works. The methodology has a State wide significance and the results of the dredging will be properly evaluated and the efficiency of the work assessed for future projects.⁸⁵

No partner funding

5.84 Partnership funding is one of the key principles of the Regional Partnerships Program. The published program guidelines state:

Partnerships are a strong demonstration of support. Partnerships are established where individuals, private sector businesses, community/not-for-profit organisations, other organisations and any local, state and/or Australian Government agencies make a financial and/or in-kind contribution to your project.⁸⁶

84 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 7.

85 Mr Knowles MP, NSW Minister for Infrastructure and Planning and Natural Resources, *Correspondence* 18 February 2001, in answers to questions on notice received 10 March 2005.

86 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 4.

5.85 The RPP Internal Procedures Manual states as 'a rule of thumb' that, 'a contribution of 50% will generally be expected from applicants and their partners'.⁸⁷ The procedures manual gives the following examples of special circumstances where a contribution of less than 50 per cent may be acceptable:

- Projects servicing very small communities which have a low average income base and/or are remote
- Projects in areas suffering from economic decline and/or natural disaster or drought
- The applicant is a local council in a remote area with a low rate base, the majority of people have low incomes, and it can be demonstrated that the council has contributed as much as it is capable of, given the funding it receives from all sources.⁸⁸

5.86 The Committee notes that none of these provisos apply to the Tumbi Creek project and questions why the Government accepted a 30 per cent contribution from the Council in the second application. It is both unusual and inappropriate for federal funds to be used to 'top up' funding to RPP projects that have inadequate levels of partnership support.

Inadequacy of the RPP applications

5.87 The paucity of information included in the Council's RPP applications, particularly in terms of budget and project milestones, demonstrates serious deficiencies in the administration of this particular RPP grant. Comments made by members of the Central Coast Area Consultative Committee (CCACC) demonstrate the inadequacy of the Council's first grant application. In a note to Mr Peter Hale, Chairman of the ACC, the Executive Officer Mr John Mundy stated 'it is probably the worst application that I have seen'.⁸⁹ Mr Hale told the Committee it was the worst application he had seen, other than from small, voluntary community groups.⁹⁰

5.88 The following paragraphs review several areas in which the applications were demonstrably deficient: the project budget, timetable and performance measures.

Project budget

5.89 The project budget provided in the first application separated costs into only three identified items: consultant/contractors (\$1.47 million), landfill fees (\$250,000)

87 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, September 2004, p. 25.

88 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Internal Procedures Manual, September 2004, p. 25.

89 Mr Mundy, correspondence, 11 June 2004, in Central Coast ACC minutes and recommendations.

90 Mr Hale, Chairman, Central Coast Area Consultative Committee, *Committee Hansard*, 24 February 2005, p. 54.

and roads (\$320,000).⁹¹ The second application repeated these details, and provided a reference to a council report of 9 June 2004.⁹² However, that report compared the estimated overall cost of different dredging options rather than giving a detailed breakdown and evidence for the estimated cost of the proposed option.

5.90 While it is understood that the Council intended to contract out the dredging works, the RPP application should have provided sufficient information for an evaluation of the cost-effectiveness of the proposed project. The application form specifically requests that evidence of budgeted costs be provided (for example quotes, market comparisons, valuations).⁹³ No such evidence was included in the Council's applications.

5.91 DOTARS witnesses advised the Committee that in assessing the application further budget information was sought from the Council. DOTARS did not disclose the response received.

5.92 This Committee requested that Council representatives supply the precise costings for the project and received a two page estimate of costs. These estimates provided a further breakdown of cost items, including the assumed per unit costs of each item (for example, dredging costs at \$50 per cubic metre) and the basis for each estimate.⁹⁴

5.93 However, the total project cost estimate reflected the imprecise nature of the budget. After allowing a 20 per cent contingency in its cost estimate, the Council added an additional \$25,000 to its request, for the purposes of rounding out the total figure:

Sub-total	\$1,646,000
20% contingency	\$329,000
Total	\$1,975,000
Say	<u>\$2,000,000</u> ⁹⁵

The Committee is concerned that this sort of arbitrary approach to requests for public funds is apparently permitted under the Regional Partnerships Program.

91 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004, in Central Coast ACC minutes and recommendations.

92 Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

93 Regional Partnerships Application Form, in Central Coast ACC minutes and recommendations, p. 12.

94 Wyong Shire Council, *Tumbi Creek Dredging Project Estimate for Option 1*, in answers to questions on notice, received 10 March 2005.

95 Wyong Shire Council, *Tumbi Creek Dredging Project Estimate for Option 1*, in answers to questions on notice, received 10 March 2005.

5.94 From the limited budget information provided in the project applications, questions arose about a \$250,000 item listed as 'landfill fees'.⁹⁶ The Committee was advised that disposal of the dredge spoil would be exempt from the relevant state landfill levy. Therefore the Committee wished to be assured that the Council's budget did not include non-existent costs. The matter of disposal fees had also been raised with the Council by DOTARS when negotiating the funding contract.⁹⁷

5.95 Council witnesses explained that this cost item was actually for the costs associated with handling the material at the landfill site.⁹⁸ In the further budget information provided to this Committee the item was listed as 'Disposal costs at Buttonderry Waste Management Facility site', with the cost estimate relating to earthworks and materials handling at the landfill.⁹⁹ While the Committee is satisfied that this item therefore related to real costs, the listing of the item in the grant application as 'landfill fees' was misleading.

Timetable and outcomes

5.96 Question 14 of the RPP application form asks proponents how they will measure their project's outcomes. The question asks proponents to 'include information about timeframes, how outcomes will be measured and by who, and how they will be reported on'.¹⁰⁰ The Council's responses to this question failed to provide such details. In each of the applications, the performance measures were listed as:

Outcome	Performance measure
Improved access by boats	No. of boats using channel will be monitored
Improved water quality	Water quality testing will be done and fish stocks checked. ¹⁰¹

5.97 This information provides no indication of the scale of improvements that the project aimed to achieve. How many more boats were expected to use the channel? Did the Council expect that water quality would improve to agreed recreational standards? How often would testing be done? Where would the results be reported? It

96 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004 in Central Coast ACC minutes and recommendations, and Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

97 Mr Petrovsky, correspondence, 22 November 2004, in answers to questions on notice received 4 July 2005.

98 *Committee Hansard*, 24 February 2005, p. 32.

99 Wyong Shire Council, *Tumbi Creek Dredging Project Estimate for Option 1*, p. 1, in answers to questions on notice, received 10 March 2005.

100 Wyong Shire Council, *Regional Partnerships Application Form*, in Central Coast ACC minutes and recommendations, p. 14.

101 Wyong Shire Council, *Regional Partnerships Application Form*, 10 June 2004 in Central Coast ACC minutes and recommendations, and Wyong Shire Council, *Regional Partnerships Application Form*, 25 June 2004, in answers to questions on notice, received 10 March 2005.

is also notable that although flood mitigation was raised at the Committee's hearing as a principal reason for the dredging work, monitoring of flood risk was not included in the project outcome measures. It is difficult to see that any valid measures of the outcomes of this project were required in order for it to obtain funding approval.

5.98 Given the deficiencies in the grant application reviewed by the ACC, the ACC advised DOTARS that the proponent should be asked to supply further information in support of the application. The suggested information included: evidence that the project would allow the water in the creek to be used for recreational purposes; a feasibility study into use of the boat ramp and whether an alternative site would provide a more economical solution; and reports on how often the dredging would be required once carried out initially.¹⁰² The Committee did not receive evidence whether or not this information was sought or obtained by DOTARS.

5.99 It is inappropriate that applications with the paucity of budget detail and inadequate project implementation plans and performance measures described above were accepted by the Government. In the Committee's view, the dredging option required further research and development prior to funding approval. The Committee is further concerned that the inadequacy of the applications reflects undue haste in their preparation and submission, as a result of political influence to expedite the grants.

Bypassing the ACC's assessment

5.100 As noted above, the relevant ACC was not involved in the development of either of the Council's applications relating to Tumby Creek, which were submitted directly to DOTARS' regional and national offices, respectively. DOTARS sent the first application to the ACC for comment, but did not supply the ACC's assessment to the minister when considering the first grant. The second application was not provided to the ACC and the department did not disclose whether the ACC's earlier advice was supplied to the minister when considering the second grant.

5.101 Evidence to the inquiry shows that the ACC had several concerns with the project. Overall, the ACC rated the project as 'Recommended and low priority'.¹⁰³ Two ACC members registered their support for the project and two stated that they did not support the project.¹⁰⁴ Mr Peter Hale, Chairman of the CCACC, expanded on the ACC's overall assessment:

Simply put, there had been so much publicity about it and it was obviously so important, particularly to the people in that area, that it deserved to get some rating to say that people wanted to do it. From the political

102 Central Coast ACC, correspondence, 24 June 2004, in Central Coast ACC minutes and recommendations.

103 *CCACC project synopsis and comments sheet*, p. 2, in Central Coast ACC minutes and recommendations.

104 Central Coast ACC minutes and recommendations.

perspective of council and government, it was an important project and that was fine, but it was very low priority.¹⁰⁵

5.102 Mr Hale also expanded on why the project was considered a low priority:

I think it was mentioned that there are five tributaries into the lake and a lot more drainage that runs into it. To me, Tuggerah Lake has a very serious problem. From Wyong council's point of view, I would agree that the lake itself has a very serious problem, but it is a lot greater than \$1.6 million worth. To me, it is a low priority because I do not see the effect of what the \$1.6 million will do.¹⁰⁶

5.103 Although the second application was not provided to the ACC, Mr Hale heard of the proposed increase in federal funding for the project and felt compelled to register his concerns with DOTARS. In a letter of 6 August 2004 Mr Hale wrote, 'I feel obliged to lodge my serious concerns as to the value of this project and possible political fallout both standing alone and in relation to other needed projects on the central coast.' He also said, 'This allocation will cause serious concern in our committee as to the validity of the Partnership program and could very well lead to a 'white board' type scandal'.¹⁰⁷

5.104 During the Committee's hearing, Mr Hale explained these comments as follows:

I think those words refer to a minister of a similar name, Kelly, but the issue was that we have had great difficulty in having projects funded and the system is always so stringent that on this occasion the \$680,000 was hard enough to credit, but when it was going to be announced that it was \$1.2 million it was disappointing to a committee that saw a lot of other things that could be funded that would benefit the whole of the community.¹⁰⁸

5.105 Dr Dolman advised the Committee that following Mr Hale's letter to the department he raised the concerns with Parliamentary Secretary Kelly.¹⁰⁹ However, by the date of Mr Hale's letter the decision to approve the additional grant had already been made.

5.106 The Committee has on several occasions been informed that ACC assessments form an important element of advice to the minister regarding funding decisions. Given the size of the grant sought, the content of the ACC advice and the public and political interest in the Tumbi Creek dredging project, the Committee finds

105 Mr Hale, *Committee Hansard*, 24 February 2005, p. 52.

106 Mr Hale, *Committee Hansard*, 24 February 2005, p. 50.

107 Mr Hale, Correspondence, 6 August 2004, in Central Coast ACC minutes and recommendations.

108 *Committee Hansard*, 24 February 2005, p. 53.

109 *Committee Hansard*, 24 February 2005, p. 101.

it unusual and unsatisfactory that the ACC's assessment was not provided in relation to the first application and possibly the second application. The Committee notes that by the department's own guidelines, to argue that the ACC comments were 'late in coming' and thus not provided is untenable and is undermined by the fact that DOTARS had another opportunity to provide the ACC's comments before the second grant was approved. This leads the Committee to the view that the funding decision was taken with undue haste, without proper assessment and endorsement and for political reasons.

Conclusions

5.107 The Committee considers that, while undoubtedly a galvanising issue for the local residents of the area, the Tumbi Creek dredging project would provide a very low return on an investment of almost \$1.5 million of tax payers' money when compared with the returns from numerous other projects funded through RPP.

5.108 The evidence available to this Committee does not explain why Minister Lloyd's office advised the Council officers to send the initial RPP application directly to DOTARS. Similarly, the reasons why the parliamentary secretary sought to have the project given priority are not available for scrutiny. Nevertheless, the poor quality of the RPP applications, lack of regard for the ACC's comments and remarkably short approval time indicate that the application, assessment and approval process was conducted with undue haste. The Committee considers that priority treatment for this project application resulted in the announcement of federal funding for a dredging project popular with the local community in the lead up to the 2004 federal election campaign, at the expense of transparent and accountable consideration of the project's merits and suitability for RPP funding.

Chapter 6

The A2 Dairy Marketers project

Background

6.1 On Sunday 29 August 2004, the day the federal election was announced, the Hon De-Anne Kelly MP, then Parliamentary Secretary to the Minister for Transport and Regional Services, approved a \$1.27 million grant under the Regional Partnerships Program. The grant was to test herds for A2 milk-producing cows and establish an A2 milk processing plant on the Atherton Tablelands, Qld. The funding was to be used for a joint venture between A2 Dairy Marketers Pty Ltd (A2DM – the proponent), Mungalli Dairy Pty Ltd and several Atherton Tablelands dairy farmers. The grant approval was announced during the election period on 8 September 2004 and A2DM went into voluntary administration on 4 October 2004—after only five months of trading and less than a month after the grant was announced. Approval of the grant was then withdrawn.

6.2 This chapter examines A2DM, the history of its applications for funding under the Sustainable Regions and Regional Partnerships Programs, the actions taken by various bodies and individuals in the application process, and the overall impact of the proposed A2DM project, the grant announcement and its subsequent withdrawal, on the Atherton Tablelands dairy industry.

6.3 The A2DM project draws out some serious concerns with the administration of both the RPP and the SRP, including: advice from an advisory committee being ignored or not acted upon; ministers or parliamentary secretaries expediting projects at the expense of a full assessment being undertaken; the role and influence of ministerial advisers on the programs; and the adequacy of due diligence processes.

A2 milk

6.4 All cows' milk contains a type of protein called beta-casein, two variants of which are β -casein A¹ ('A1') and β -casein A² ('A2'). Cows usually produce milk containing both A1 and A2, although the levels of each protein vary considerably between and within breeds and up to one in four cows do not produce A1 at all.¹ A2 milk refers to cow's milk that does not contain the A1 protein, and is produced by selectively milking cows that do not produce A1.² Cows can be genetically tested to determine whether they produce the A1 casein, at a cost of about \$25 per test.³

1 K. Tailford, C. Berry, A. Thomas and J. Campbell (2003) 'A casein variant in cow's milk is atherogenic', *Atherosclerosis* 00 (2003) 17, p. 3; *Committee Hansard*, 13 April 2005, p. 71.

2 L. Edmiston (2004) 'Doubts over benefits of new milk', *The Courier-Mail*, 1 July 2004, p. 10.

3 Mr Strazzeri, *Committee Hansard*, 13 April 2005, p. 86.

6.5 A2 milk patents are based on studies that suggest a connection between consumption of A1 and type 1 diabetes, vascular disease and neurological disorders. However, this connection has not been proven in humans and many independent scientific and medical groups have said there is no strong scientific evidence to back up these claims.⁴ The worldwide holder of A2 milk patents is New Zealand company A2 Corporation Ltd.

A2 Dairy Marketers Pty Ltd

6.6 This section provides a brief outline of A2DM's operations outside the Atherton Tablelands, from the company's establishment until the time it went into voluntary administration.

6.7 A2 Dairy Marketers Pty Ltd (A2DM) was established by Brisbane businessmen Mr Lindsay Stewart and Mr Phil Roberts. The company was registered on 12 November 2003 and Mr Stewart and Mr Roberts were appointed company directors on the same day. Mr Stewart, Mr Roberts and their wives were the only shareholders, and commenced the company with \$2 start-up capital.⁵

6.8 In evidence given to the Committee, Mr Stewart said the other A2DM director was Mr Chris Saddler, a stock agent. However, the Committee has been unable to establish that Mr Saddler was ever legally appointed as a director. Mr Stewart's evidence indicated that Mr Saddler was responsible for supply of A2 milk, Mr Roberts was primarily responsible for the administrative and financial aspects of the company and Mr Stewart was the marketing specialist. Mr Greg Little, managing director of a milk distributor, was also involved in managing the distribution and logistics functions of A2DM.⁶

6.9 A2DM entered into a licence agreement on 22 December 2003 with A2 Corporation Ltd to sell A2 milk anywhere in Australia and to access patents for the testing of cows and milk. As part of the agreement, A2DM was required to pay the A2 Corporation a royalty of 10.75 cents per litre of A2 milk sold.⁷

6.10 In late 2003, A2DM engaged a public relations consultant and an advertising agency. Mr Stewart told that Committee that the advertising agency, Cooe Advertising, recommended that A2DM employ a government liaison consultant, and suggested Mr Ken Crooke, a director of the Asia Pacific Corporation (a government

4 L. Edmiston (2004) 'Doubts over benefits of new milk', *The Courier-Mail*, 1 July 2004, p. 10.

5 Mr Stewart, *Committee Hansard*, 13 April 2005, pp 31 and 68.

6 Mr Stewart, *Committee Hansard*, 13 April 2005, pp 34-35.

7 Mr Stewart, *Committee Hansard*, 13 April 2005, pp 41 and 46; licence agreement between A2DM and A2 Corporation Ltd, dated 22 December 2003, in A2DM liquidator's documents, received 8 April 2005.

relations consulting firm).⁸ Mr Crooke's role in relation to A2DM's applications for funding is discussed later in the chapter.

6.11 A2DM commenced trading in south east Queensland on 1 May 2004.⁹ The launch was accompanied by a marketing campaign that included extensive television advertising. Mr Stewart told the Committee that A2DM could not fulfil its supply obligations from the first day:

At the launch of the company we were promised by one director, who was in charge of the supply of A2, that we would have 25,000 to 30,000 litres per day. On saying that, we put a heavy marketing campaign together to justify that. When we launched he had 6,000 litres, so the company was in a situation where we had back orders and things like that, which I sometimes said was a good thing because it was creating demand, but it was a panic mode. We had sales there that we could not deliver because of promises or lies by directors.¹⁰

6.12 The A2 milk sold in south east Queensland was sourced from dairy farmers located in the Gympie area. A2DM paid a farm gate price of 50c per litre for the five months it traded, and sold the milk for between \$4.09 and \$4.29 per two litre bottle.¹¹

Financial situation and legal action against A2DM

6.13 A2DM appears to have been in a tenuous financial situation from the time it began trading in May 2004. Between June and August 2004, A2DM was late paying its contracted southern Queensland A2 milk suppliers and could not pay its suppliers out of the operation of the business.¹²

6.14 Mr Stewart told the Committee that several times at board meetings he had raised concerns that the company's accounts were not accurate:

We employed a full-time accountant and were under the directorship of Phil Roberts, who was mainly in charge of the funding and the office arrangements, because I was travelling, launching the product and things such as that. So I would attend the board meetings, and the minutes will show that there were a couple of times where I did raise the question about finance and the capabilities of the people that were running A2.¹³

6.15 Queensland Health met with A2DM in late May 2004 and questioned the corporation's use of health claims in its A2 milk advertising campaign. A2DM's

8 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 47.

9 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 33.

10 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 34.

11 Mr Stewart, *Committee Hansard*, 13 April 2005, pp 71-72.

12 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 37.

13 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 34.

website and advertising campaign made claims that A2 milk reduces the risk of heart disease, diabetes and neurological disorders such as autism that have been linked by some studies to A1.¹⁴ In September 2004, A2DM was convicted and fined \$15,000 by the Brisbane Magistrate's Court for making misleading health claims in breach of the *Food Act 1981*. A spokesperson for Queensland Health said that 'the [Queensland] Government was compelled to take action because A2 Dairy Marketers had inferred ordinary milk was unhealthy'.¹⁵

6.16 A2 Dairy Marketers went into voluntary administration on 4 October 2004 and a liquidator was appointed on 11 November 2004. At the time it went into administration, A2DM had a debt of \$126,146.11 to the Department of Agriculture, Fisheries and Forestry for the 11c per litre Dairy Industry Adjustment Levy (DIAL), incurred between May and September 2004.¹⁶ A2DM also owed Dairy Australia \$82,480.59, which probably related to an unpaid research and development levy.¹⁷

A2DM's applications for SRP and RPP funding

6.17 This section outlines the events leading up to the announcement of the RPP grant to A2DM to establish an A2 milk processing plant on the Atherton Tablelands. It also examines the involvement of various stakeholders, including politicians, a ministerial adviser, the Atherton Tablelands Sustainable Region Advisory Committee (ATSRAC), the Far North Queensland Area Consultative Committee (FNQACC) and DOTARS.

The expression of interest for SRP funding

6.18 Evidence to the Committee suggests that Mr Crooke (A2DM's government liaison consultant) and the A2DM directors had some preliminary meetings and discussions with ATSRAC members and staff during May 2004 regarding possible SRP funding to test cows and establish an A2 milk processing plant in the Atherton Tablelands. These meetings and discussions are outlined in more detail below.

6.19 Although there may have been earlier contact with the executive officer of ATSRAC,¹⁸ the Committee received evidence that the first time A2DM made written representations regarding the possibility of RPP or SRP funding was in a letter from Mr Stewart to the Hon John Anderson MP, then Deputy Prime Minister and Minister for Transport and Regional Services on 10 May 2004. The letter requested

14 L. Edmestone, 'Doubts over benefits of new milk', *The Courier-Mail*, 1 July 2004, p. 10.

15 S. Dwyer quoted in ABC Queensland, 'Court fines dairy distributor over milk claims', 30 September 2004.

16 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 39.

17 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 40. For further information about A2DM's financial status, refer to A2DM liquidator's documents, received 8 April 2005.

18 Mr Crooke, email to Mr Saddler, 6 May 2004, in A2DM liquidator's documents, received 8 April 2005.

information on the availability of 'government assistance schemes' such as RPP and SRP and 'urgent consideration of a proposal to fund the establishment of a production facility to process A2 milk on the Atherton Tablelands'.¹⁹

6.20 Mr Stewart's letter also highlighted A2DM's willingness to pay a farm gate price of 50 cents per litre – significantly higher than the incumbent processor and a possible boon to the drought and deregulation affected Atherton Tablelands dairy industry. The letter referred to a discussion between Mr Stewart and Ms Wendy Armstrong of the minister's office and foreshadowed A2DM's meeting of 17 May with then ATSRAC Executive Officer, Ms Yvonne Tunney (as discussed below).²⁰

6.21 In an email of 6 May 2004, Mr Crooke also stated that he had scheduled a meeting on 17 May with Ms Tunney to discuss a possible application for SRP funding. The email said:

Behind the scenes I have opened the door a little and it should be possible for us to have a suitable letter tabled at the next meeting of the Committee (scheduled for May 28th/29th). At this stage they would only look at a brief concise description of what A2 wants to do.²¹

6.22 On 20 May 2004, Mr Stewart sent Ms Tunney a draft letter to be presented to the ATSRAC meeting scheduled for 28 and 29 May. The letter was almost identical to Mr Stewart's letter of 10 May to Mr Anderson. It contained background information about A2 milk and requested support to test cows and consideration of a proposal to establish a processing facility.²² Ms Tunney replied to Mr Stewart on the same day, providing some feedback on the letter and suggesting it include information about the contribution A2DM and other project partners would make to the project.²³

6.23 Mr Stewart revised the letter according to Ms Tunney's comments and sent the revised letter, dated 26 May 2004, to then ATSRAC Chairman Mr Peter McDade. The amended letter outlined 'investment options' for establishing an A2 milk processing plant, including a joint venture with Cuda Brothers dairy, located on the Atherton Tablelands.²⁴

19 Mr Stewart, correspondence to Minister Anderson, 10 May 2004, in A2DM liquidator's documents, received 8 April 2005.

20 Mr Stewart, correspondence to Minister Anderson, 10 May 2004, in A2DM liquidator's documents, received 8 April 2005.

21 Mr Crooke, email to Mr Saddler, 6 May 2004, in A2DM liquidator's documents, received 8 April 2005.

22 Mr Stewart, email to Ms Tunney, 20 May 2004, in A2DM liquidator's documents, received 8 April 2005.

23 Ms Tunney, email to Mr Stewart, 20 May 2004, in A2DM liquidator's documents, received 8 April 2005.

24 Mr Stewart, correspondence to Mr McDade, 26 May 2004, in A2DM liquidator's documents, received 8 April 2005.

6.24 Mr McDade told the Committee he had a preliminary meeting with Mr Crooke, Mr Roberts, Mr Saddler and one other A2DM representative whose name he could not recall on 26 May 2004 to discuss the possibility of a future A2DM application for SRP funding.²⁵ The meeting was initiated by Mr Crooke and took place in Brisbane.²⁶

6.25 Mr McDade said there was no mention of politicians during the meeting.²⁷ Rather, the A2DM representatives were more interested in the processes and timeframes for SRP applications:

They were asking, 'What sort of time limits do we have on the processes here?' I explained our processes to them and said: 'You know, we cannot rush things through. This is government money. It is a public program. But, if you get something to my executive officer and it is in a suitable form, then I will ask the committee to consider whether it is appropriate to consider it as an expression of interest.'²⁸

6.26 ATSRAC considered Mr Stewart's letter of 26 May at its meeting of 28 and 29 May and resolved that A2DM be invited to submit a detailed expression of interest (EOI). On 11 June 2004, Ms Tunney emailed Mr Stewart and invited him to lodge an EOI by 16 July to be considered at ATSRAC's meeting of 6 August.²⁹ She also provided some guidance about the information that would need to be included:

...whilst we won't need detailed business plans etc at EOI stage we will need to see some detailed budget information and indication of future viability/sustainability.³⁰

6.27 A2DM completed an expression of interest form for \$100,000 of SRP funding to subsidise farmers to test cows for the A2 protein.³¹ ATSRAC considered the form at its meeting of 6 August 2004 and declined to accept it as an expression of interest for SRP funding because it did not address the criteria of the SR program or ATSRAC's criteria for an expression of interest.³² The ATSRAC minutes indicated the matters ATSRAC took into consideration when deciding not to accept the expression of interest:

25 Mr McDade, answer to question on notice, received 14 April 2005.

26 Mr McDade, *Committee Hansard*, 13 April 2005, p. 150.

27 Mr McDade, *Committee Hansard*, 13 April 2005, p. 151.

28 Mr McDade, *Committee Hansard*, 13 April 2005, p. 151.

29 Ms Tunney, email to Mr Stewart, 11 June 2004, in A2DM liquidator's documents, received 8 April 2005.

30 Ms Tunney, email to Mr Stewart, 11 June 2004, in A2DM liquidator's documents, received 8 April 2005.

31 A2DM expression of interest for SRP funding, undated, in A2DM liquidator's documents, received 8 April 2005.

32 Mr McDade, *Committee Hansard*, 13 April 2005, p. 150.

The Committee considered a number of issues and aspects of the A2 Milk Marketing project including:- Impacts of A2 Milk initiative and possible establishment of processing facility in the Tablelands region—how would the existing processor and industry be impacted?

Consideration of regional dairy industry initiative—this has been developed through long-term planning since deregulation and the Advancing Grow Malanda forum supported by ATSRAC in October 2003.

No indicated financial input from A2 apart from in-kind—the ATSRAC criteria have always considered a commercial entity should contribute at least 50% of future actual cash contributions to any project.

There is no information on what would occur past the initial testing—there are references to a processing facility but no firm indication how this might be established.

There is no information as to the market situation or supply chain development process.

The issues of competitive neutrality in relation to the existing industry are not addressed.

ACTION: ATSRAC endorsed decline of the Expression of Interest as the proposal does not address the criteria of the program.³³

The application for RPP funding

6.28 A2DM also made an application for funding under the Regional Partnerships Program. The suggestion of applying for RPP funding appears to have originated from a meeting of 11 June 2004 between the parliamentary secretary, Mr Stewart, Mr Roberts and Mr Crooke. Ms Leslie Riggs, then Assistant Secretary of the DOTARS Regional Communities Branch, was involved in the meeting by teleconference, as was a DOTARS project officer.³⁴ Mr Stewart told the Committee that the parliamentary secretary called the DOTARS officers and asked about appropriate channels to provide federal government funding for an A2 milk processing plant on the Atherton Tablelands. It appears that this was the first time DOTARS became aware of the project.³⁵

6.29 The local ACC, which is based in Cairns, was first notified about the possibility of A2DM making an RPP application via an email on 15 June 2004 from the DOTARS office in Townsville. The same email alerted FNQACC to the parliamentary secretary's particular interest in the project.³⁶

33 Mr McDade, *Committee Hansard*, 13 April 2005, pp 150-151.

34 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 52.

35 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 55.

36 Mr Vieira, *Committee Hansard*, 13 April 2005, pp 98, 112-113.

The first proposal for RPP funding

6.30 In an email to Mr Stewart dated 21 June 2004, Mr Crooke claimed that he had managed to fast-track the application process:

After some further 'negotiation' had been successful in cutting out the first phase of the Cairns application, the requirement to submit a brief to the [FNQACC] board, and with the board then considering whether to invite a full application, we have been invited to go direct to the full application. However they have asked for it to be in Cairns by close of business, Wednesday, 23 June.³⁷

6.31 The Committee has been unable to ascertain who Mr Crooke's 'negotiations' were with. Neither Mr Robert Blanckensee, FNQACC Chair or Mr Tomas Vieira, FNQACC Executive Officer could recall having contact with Mr Crooke.³⁸

6.32 Mr Stewart sent an incomplete RPP application form to Mr Vieira on 22 June 2004 requesting funding for a joint venture between A2DM and Cuda Brothers Dairy for a milk processing plant at the Cuda family dairy at Tolga. The proposal contained background information about A2 milk and A2DM's operations, information about the Atherton Tablelands dairy industry, the potential benefits of an A2 milk processing plant, a brief marketing strategy and information about the company structure. Stage one of the proposal involved testing 3,500 cows at \$30 a head, and stage two involved establishing the milk processing facility in partnership with the Cuda family.³⁹

6.33 Mr Vieira said that he first met with Mr Stewart on 6 July 2004. Mr Vieira described the purpose of the meeting as being to provide feedback and advice as to how the application might be strengthened.⁴⁰ At the meeting, Mr Vieira assisted Mr Stewart to develop the application and suggested it needed stronger regional partnership elements. It appears that A2DM then revised the proposal and changed partners so as to broaden the project and include more local ownership.⁴¹

The application

6.34 A2DM lodged an RPP application directly with DOTARS on 9 July 2004⁴² for a partnership between A2DM, Mungalli Dairy and local dairy farmers for funding to subsidise the farmers for the testing of A2 cows and establish an A2 milk

37 Mr Vieira, *Committee Hansard*, 13 April 2005, p. 98.

38 Mr Blanckensee and Mr Vieira, *Committee Hansard*, 13 April 2005, p. 99.

39 Mr Stewart, correspondence to Mr Vieira, 22 June 2004, in A2DM liquidator's documents, received 8 April 2005; A2DM incomplete RPP application, undated, in A2DM liquidator's documents, received 8 April 2005.

40 Mr Vieira, *Committee Hansard*, 13 April 2005, p. 98.

41 Mr Vieira, *Committee Hansard*, 13 April 2005, p. 115.

42 Mr Yuile, *Committee Hansard*, 14 April 2005, p. 76.

processing plant at Mungalli Dairy. The Committee was unable to obtain evidence regarding the reasons A2DM lodged the application directly with DOTARS rather than submitting it to FNQACC after Mr Vieira had provided advice on the original proposal.

6.35 Mr Stewart told the Committee that the Atherton Tablelands operation was intended to be entirely separate from A2DM and that funding was to be conditional on transferring a cleanskin company owned by Mr Stewart and Mr Roberts, Star International Group, into the ownership of all project partners.⁴³ This funding condition is discussed below in relation to due diligence assessment.

6.36 A meeting regarding the possible A2 grant was held on 31 July 2004 between the parliamentary secretary (who chaired the meeting), representatives of A2DM, Mr Vieira and nine or ten local dairy farmers.⁴⁴ Mr Joe Strazzeri, one of the dairy farmers who attended the meeting, recalled that the parliamentary secretary:

...gave us a briefing and promised that she would do something about it, because she wanted us to be able to negotiate for prices and get better returns...She gave a commitment that she would look into the grants and see what she could do. That is all we knew, as farmers. After that, we went home.⁴⁵

6.37 Mr Vieira described his role at that meeting as examining the viability of the existing Atherton Tablelands dairy industry and gauging whether A2DM's project had the support of local farmers.⁴⁶ He told the Committee the meeting of 31 July was the first time he became aware the application had changed from its original form as a partnership between A2DM and Cuda Bros Dairy:

I think that is where I learned of the change—when we talk of the change—with Mungalli's addition. I thought that was a great move because at least that meant greater local ownership in the project.⁴⁷

6.38 As it is unusual for a minister or parliamentary secretary to attend meetings in relation to an RPP application, the Committee asked whether FNQACC was encouraged to accept the project by the parliamentary secretary:

Senator O'BRIEN—Was it clear from the meeting that Parliamentary Secretary Kelly wanted the project to succeed or get up?

Mr Vieira—My understanding or my feeling was that, yes, she would have liked to support the dairy farmers on the tablelands.⁴⁸

43 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 78.

44 Mr Strazzeri, *Committee Hansard*, 13 April 2005, p. 83.

45 Mr Strazzeri, *Committee Hansard*, 13 April 2005, p. 90.

46 Mr Vieira, *Committee Hansard*, 13 April 2005, p. 100.

47 Mr Vieira, *Committee Hansard*, 13 April 2005, p. 127.

48 *Committee Hansard*, 13 April 2005, p. 128.

Fast-tracking of the application process

6.39 The parliamentary secretary and others have been reported as stating that the A2DM application for RPP funding was fast-tracked.⁴⁹ Although DOTARS witnesses claimed that all due diligence checks normally carried out at that stage had been passed,⁵⁰ it appears that political pressure led DOTARS to bypass the advice of the ACC and due diligence checks that should have uncovered A2DM's financial problems and the legal action being taken against it by a state government.

6.40 Dr Gary Dolman, then Assistant Secretary of DOTARS Regional Communities Branch, provided the following observations about the fast-tracking of RPP applications:

There are...occasions when time critical projects are sought to be fasttracked. Generally, that is at the request of the proponent, where they say they need the money within a certain time. As the ACC said, it is the experience of other ACCs that, where we are asked to try and fast-track an assessment, which means doing the same amount of work on the assessment but doing it more quickly, we do try and do that where there is seen to be a good reason, a good case for doing so—where there is a community need to have the money quickly.⁵¹

6.41 DOTARS witnesses told the Committee that the application made by A2DM passed through the initial due diligence tests that are applied to all projects. The due diligence process commenced on 9 July 2004, when the application was received by the Department, and was completed on 27 August, when DOTARS provided advice to the parliamentary secretary.⁵²

6.42 In assessing the application, DOTARS sought background information about A2DM's proposal from Mrs Lyn O'Connor, an independent consultant and advocate for the Atherton Tablelands dairy industry, who in evidence to the Committee said she had provided DOTARS and FNQACC with feedback on various RPP applications.⁵³ Mrs O'Connor described to the Committee the sense of time pressure associated with the A2DM project:

During my previous contact with DOTARS, the dialogue and time frames around seeking and providing input have been reasonable. With the A2 project, there was a different climate and a sense of haste and pressure.⁵⁴

49 L. Taylor, 'Nats' milk plan turns sour', *Australian Financial Review*, 1 December 2004, pp 1, 7.

50 Ms Riggs, correspondence, received 12 July 2005, p. 3.

51 Dr Dolman, *Committee Hansard*, 14 April 2005, pp 78-79.

52 Dr Dolman, *Committee Hansard*, 14 April 2005, p. 76.

53 Mrs O'Connor, *Committee Hansard*, 13 April 2005, pp 2, 4.

54 Mrs O'Connor, *Committee Hansard*, 13 April 2005, p. 3.

6.43 The Committee was also concerned as to whether FNQACC was pressured to provide comments on the application within a reduced timeframe. DOTARS and FNQACC witnesses could not recall the date the application was sent to FNQACC through the TRAX system for comment. Committee members asked whether the ACC was asked to provide comments in less than the normal timeframe, and Dr Dolman told the Committee that the ACC was asked by the DOTARS officer that attended the FNQACC meeting of 6 August to provide comments within the ten day timeframe set out in the internal procedures manual.⁵⁵

6.44 However, as discussed in relation to Tumbi Creek, the Regional Partnerships Internal Procedures Manual states that this timeframe does not apply to applications submitted directly to the Department and not prepared in conjunction with the ACC.⁵⁶ As the A2DM application was submitted to DOTARS and the revised application was not prepared in conjunction with FNQACC, it stands to reason that the ACC should have had a longer time frame to examine the application.

FNQACC advice on the application

6.45 The Committee was concerned to understand the rationale for FNQACC's recommendation about the A2DM application and the extent (if any) to which the ACC should have undertaken a due diligence assessment.

6.46 FNQACC's Executive Officer Mr Tomas Vieira and Chair Mr Robert Blanckensee made it clear to the Committee that while the ACC had made a strong recommendation to DOTARS that further research should be undertaken before the project was approved, due diligence was not the responsibility of ACCs and they were not resourced to undertake it. Mr Blanckensee said the ACC believed its role was to 'provide the reconnaissance information for the department and the minister for their consideration'.⁵⁷ However, Mr Blanckensee and Mr Vieira were informally aware through their relationship with ATSRAC that a request for SRP funding existed and that ATSRAC did not support it.⁵⁸ This prompted the ACC to delve '...a little deeper than normal into finding out what was happening...'⁵⁹

6.47 Both Mr Vieira and Mr Blanckensee commented on the 'disjunction in the information flow' that can occur when applications are submitted directly to DOTARS rather than developed in conjunction with the ACC.⁶⁰ They explained that it is preferable for the ACC to work with the proponent to address any deficiencies in an

55 Dr Dolman, *Committee Hansard*, 14 April 2005, pp 78-79.

56 DOTARS, *Submission 14*, Attachment E, Regional Partnerships Programme Internal Procedures Manual September 2004, p. 58.

57 Mr Blanckensee, *Committee Hansard*, 13 April 2005, p. 120.

58 Mr Vieira, *Committee Hansard*, 13 April 2005, p. 104.

59 Mr Blanckensee, *Committee Hansard*, 13 April 2005, p. 102.

60 Mr Blanckensee, *Committee Hansard*, 13 April 2005, p. 126.

application before it is submitted and before the ACC is required to provide comments to DOTARS:

When the process goes the way this one has, it has come through a different channel. When we are working with the ACC or the proponent, we are trying to say, 'This project has legs but you need this, this and this.' We are making sure all the i's are dotted and all the t's are crossed so that the considerations can be made.⁶¹

6.48 The FNQACC received a briefing on the A2DM application from Mr Vieira at its meeting of 6 August 2004.⁶² At the meeting, members discussed 'the composition and benefits of A2 milk, as well as the product's 'niche' market and impact on current dairy farmers'.⁶³ Subsequent to the meeting, Mr Vieira disseminated the application to FNQACC members and requested their comments. The ACC made some judicious comments about the application, as recorded in the TRAX system on 26 August. Mr Blanckensee summarised the ACC's concerns as follows:

...at the time, you have to remember that the Atherton Tableland was still suffering in the grips of a drought that had virtually crippled the area. It saw milk production sink to probably an all-time low. The other concern we had was that, if you throw a competitor into such an economic situation as we had there, which was very depressed, you may have enough to sink the other organisation. I believe that Dairy Farmers was on a knife edge with regards to the critical level of production...I do not think that we would all be happily sitting around the table here with the \$1.3 million being given to one organisation while 134 permanent jobs disappeared from the region. I do not think we would have been doing our job if we had not brought that to the attention of people.⁶⁴

6.49 Mr Blanckensee explained FNQACC's decision to give the project a rating of 3 (medium priority) by saying that it fitted the TRAX description of 'medium priority' and met a number of the criteria in the strategic plan, because it would have an overall benefit to the region. It was not rated a high priority because ACC members thought the timing was wrong and extra work needed to be done before the project should proceed.⁶⁵ Mr Blanckensee also observed:

At face value the project looked as if it could have had potential for the region and could have delivered the panacea that we needed for the dairy industry. The concern we had was that if it went ahead it might have

61 Mr Blanckensee, *Committee Hansard*, 13 April 2005, p. 126.

62 Mr Vieira, *Committee Hansard*, 13 April 2005, p. 112.

63 FNQACC Minutes 6 August 2004, p. 5, in FNQACC minutes and recommendations, received 1 April 2005.

64 Mr Blanckensee, *Committee Hansard*, 13 April 2005, p. 105.

65 Mr Blanckensee, *Committee Hansard*, 13 April 2005, p. 129.

destroyed the dairy industry, because we would have seen another organisation go under.⁶⁶

6.50 FNQACC's overall recommendation was that the project warranted further investigation by DOTARS, but '[u]ntil the competitive neutrality issue is clarified, FNQ ACC Inc. members cannot recommend this project any higher than 3'.⁶⁷

The question of due diligence

6.51 The Committee is concerned that due to political pressures to process the application within a short timeframe, a proper due diligence process was not undertaken by the department. The department's explanation was unconvincing and inadequate:

It is true that the department did do the normal internal due diligence assessment for this project. The details of that assessment involved confirming the company's registration, its GST registration and ABN. It involved reviewing the business plan that was provided by A2 Milk and also cash flow forecasts. It also involved checking the development approval.⁶⁸

In other words, the department's assessment was superficial and hasty.

6.52 Mrs O'Connor, the local dairy industry expert who provided DOTARS with some advice about the A2DM application, expressed some concerns about the lack of information DOTARS had regarding the application:

Was it to be directed towards shares, testing, purchase of plant and equipment? How does that fit within the guidelines? I certainly have a lot of questions which I believe the department should have had time to consider fully. I do not need the answers to them, but the department certainly should have them.⁶⁹

6.53 It appears that A2DM provided little in the way of financial data to support its application for RPP funding, and the information provided was restricted to internally generated cash flow projections and forecasts for the Atherton Tablelands operation.⁷⁰ Mr Stewart said the company was not required to provide current financial statements and the only financial information he can recall being requested to provide by

66 Mr Blanckensee, *Committee Hansard*, 13 April 2005, p. 130.

67 FNQACC TRAX comments on A2 Milk Processing project, 26 August 2004, in FNQACC minutes and recommendations, received 1 April 2005.

68 Dr Dolman, *Committee Hansard*, 14 April 2005, p. 90.

69 Mrs O'Connor, *Committee Hansard*, 13 April 2005, p. 3.

70 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 58.

DOTARS was '...the financial spreadsheets and our projection on supply of, I think, 40,000 litres per day up here'.⁷¹

6.54 DOTARS told the Committee that it wrote to A2DM on 28 July 2004 to request further information, including information relating to processing equipment, details of the 40 jobs that were claimed to be created by the project, competitive neutrality information relating to the processing plant at Malanda, development approvals for the processing plant, and the guarantee they would provide to farmers regarding the farm gate price. DOTARS received the additional information on 5 August 2004.⁷²

6.55 Mr Stewart told the Committee that DOTARS did not ask any questions about the referees for the project in A2DM's application.⁷³ The referees were listed as Mr Saddler, Mr Dick Schroder, owner of Cooloola Milk (A2DM's south east Queensland milk processing agent) and Mr Kevin Kelly, owner of Cooee Advertising. None of the referees was independent of A2DM.⁷⁴ The Committee also heard that A2DM did not have a written agreement regarding the A2 milk processing plant with Mungalli Dairy at the time the grant was applied for or announced.⁷⁵

6.56 Mr Stewart told the Committee that DOTARS had not asked any questions about A2DM's operations in southern Queensland, its inability to pay farmers or its supply problems. Mr Stewart's evidence was that it was not necessary for DOTARS to seek information about A2DM's current financial status, because the Atherton Tablelands A2 milk processing plant was to be an entirely separate operation:

I always believed that the operation up here in Cairns or in the tableland region was seen as a different operation so, with the financials and things, alarm bells did not go off—it was projections as well as a new identity that was commencing this.⁷⁶

6.57 The Committee believes A2DM's financial situation and operations in south east Queensland were highly relevant to the viability of the RPP project and should have been investigated by DOTARS. For example, the proponent was A2DM and the managers of the new company proposed to receive the funding, Star International Group, were to be the same as the directors of A2DM. The new company was also to use the same marketing strategy and produce the same product as A2DM's southern Qld operation. The fact that much of the proponent's contribution was to be in-kind management expertise also made the directors' record in running other companies relevant.

71 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 38.

72 Dr Dolman, *Committee Hansard*, 14 April 2005, pp 77-78.

73 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 44.

74 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 43.

75 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 78.

76 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 39.

6.58 As outlined above, FNQACC submitted its comments on the project to DOTARS on 26 August 2004, with an overall recommendation of 3 but with the caveats that the project was worthy of further research and that competitive neutrality issues in particular should be investigated before the project proceeded.⁷⁷ DOTARS witnesses told the Committee that the due diligence process was completed on 27 August 2004. This suggests that the ACC's recommendation was ignored.

'After the fact' due diligence

6.59 The Committee is concerned that in relation to this and other grants, proper due diligence checks were not carried out prior to grants being approved or announced. The 'due diligence' assessment carried out prior to the department making its recommendation to the minister appears to only be a compliance check, and meant that the department neglected to provide fundamental information to the decision maker about the viability of the project.

6.60 DOTARS appeared to suggest to the Committee that such neglect was appropriate. The rationale given was that no public funds had been expended because the actual funding of the project was conditional on a full due diligence assessment of the new company that was to be created to accept the grant.⁷⁸ For example, Mr Yuile told the Committee that:

...funding was conditional on the confirmation of cofunding, an independent viability assessment of the project and the establishment of the new company, Star International Group, which was partially owned by local dairy farmers. As committee members would be aware, the proponents of the application recently went into liquidation and, as the conditions attaching to the grant were not met, no grant moneys have or will be paid.⁷⁹

6.61 This 'after the fact' due diligence, by making funding subject to conditions to be met after the approval, has allowed applications to be expedited so that the political benefits of announcements can be achieved. This practice has damaging effects not only on the proponent, but also on project partners, the local industry and community. As discussed below, this is particularly relevant in this case where dairy farmers assumed that the announcement of project approval meant that the project would proceed.

6.62 The Committee was also concerned by evidence from Mrs O'Connor that suggested DOTARS was still undertaking investigation into the application on the day of the grant announcement—nine days after the application had been approved:

77 FNQACC TRAX comments on A2 Milk Processing project, 26 August 2004, in FNQACC minutes and recommendations, received 1 April 2005.

78 Dr Dolman, *Committee Hansard*, 14 April 2005, p 80-81.

79 Mr Yuile, *Committee Hansard*, 14 April 2005, pp 76-77.

My last contact with the department, when they were still asking relevant questions in the process of rigour and due diligence, was actually around midday on 8 September. The media alert went out that afternoon.⁸⁰

6.63 If the treatment of the A2DM application represents normal practice as claimed by DOTARS, the Committee is extremely concerned about the laxity of evaluation processes.

DOTARS lack of awareness of legal action

6.64 It is of concern to the Committee that funding was approved for a project where the proponent had legal action pending against it, particularly considering the action was being taken by a state government body. Mr Stewart told the Committee he never advised the department or the ACC that A2DM was the subject of legal action over misleading advertising and DOTARS never asked about the legal action.⁸¹

6.65 The Committee considers it highly inappropriate that Mr Stewart or the other A2DM directors did not advise DOTARS of the legal action, particularly given that it impacted on the viability of the media strategy on which the project's cash flow projections were based.⁸² The Committee is also concerned that the department's routine compliance checks did not reveal legal action pending against the proponent.⁸³

The offer of funding

6.66 The letter of 2 September 2004 from Parliamentary Secretary Kelly to Mr Stewart, advising A2DM that its application for RPP funding had been approved, is somewhat ambiguous in relation to the actual recipient of the funding. The letter is addressed to Mr Stewart as Director of A2DM and states:

I am pleased to advise you that I have approved partial funding under Regional Partnerships of \$1,268,300 (GST Inclusive) to the A2 Dairy Marketers Pty Ltd for your A2 Milk Processing project.⁸⁴

6.67 There is no mention of the other project partners - Mungalli Dairy and the several dairy farmers – other than to say that funding for the project had been approved subject to confirmation of additional cash support from A2DM and other

80 Mrs O'Connor, *Committee Hansard*, 13 April 2005, p. 12.

81 Mr Stewart, *Committee Hansard*, 13 April 2005, pp 59 and 60.

82 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 60.

83 DOTARS became aware of the legal action against A2DM on 26 August 2004 – see Ms Riggs, correspondence, 22 June 2005.

84 Parliamentary Secretary Kelly, correspondence to Mr Stewart, 2 September 2004, in A2DM liquidator's documents, received 8 April 2005.

partners, and 'satisfactory resolution of company structure between Mungalli Dairy, yourself and individual dairy farmers'.⁸⁵

6.68 DOTARS witnesses explained this by saying the full conditions of the grant were outlined in a follow up letter on 24 September from DOTARS to Mr Stewart, and would have been outlined in the funding agreement.⁸⁶ The Committee suggests that the letter of offer may have more appropriately addressed to all project partners, indicating that their joint application had been approved subject to the satisfactory resolution of a company structure.⁸⁷

6.69 Given that A2DM was the proponent but a separate company was intended to be the grant recipient also raises the question of whether there was a breach of the RPP guidelines, which state that third parties seeking funding on behalf of others are not eligible to apply for funding.⁸⁸

Timing of the grant approval and announcement

6.70 DOTARS gave evidence that the A2DM application was approved by the parliamentary secretary on 29 August and announced on 8 September 2004. However, when Mrs O'Connor met with Minister Anderson and Senator Boswell on 3 September 2004 at a National Party dinner in Innisfail, she raised the issue of the A2DM grant to, in her own words, check:

That they look at the whole picture and that they address any of the weaknesses or concerns in the application or the environment around it very carefully...My whole aim in the discussion was saying, 'Are you are aware of it? Please be careful and please help us manage the impact.'⁸⁹

6.71 Mrs O'Connor told the Committee that Senator Boswell and Mr Anderson took note and said they would follow the issue up. The following week Mrs O'Connor received a call from a person claiming to be from Mr Anderson's office, who said that A2DM had not made an application for RPP funds.⁹⁰ Mrs O'Connor said:

Personally, I was aware of the application being in the system. Why else is DOTARS communicating with me regarding regional impacts and concerns? Why am I being involved in their due diligence in providing industry background if there is not an application? We are all obviously

85 Parliamentary Secretary Kelly, correspondence to Mr Stewart, 2 September 2004, in A2DM liquidator's documents, received 8 April 2005.

86 Dr Dolman, *Committee Hansard*, 14 April 2005, p. 82.

87 Senator O'Brien, *Committee Hansard*, 14 April 2005, p. 83.

88 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 6.

89 Mrs O'Connor, *Committee Hansard*, 13 April 2005, p. 10.

90 Mrs O'Connor, *Committee Hansard*, 13 April 2005, pp 10-11.

very disillusioned about that. The advice provided back to me, early in the week after 3 September, was that there was no application.⁹¹

6.72 This suggests that the grant was, in fact, approved *after* the election had been announced—during the caretaker period. If this is the case, it would be contrary to the government's guidance document on caretaker conventions, which counsel that the government avoids entering major contracts or undertakings, particularly those that require ministerial approval, during the period preceding an election.⁹² It would also contradict the department's evidence to the Committee.⁹³

The role of Mr Crooke

6.73 As noted previously, Mr Crooke arranged meetings between A2DM and members of the Queensland Government and the Australian Government. Mr Crooke also liaised with FNQACC and ATSRAC on A2DM's behalf. However, he later took a position as media adviser to the parliamentary secretary, giving rise to allegations of conflict of interest.

6.74 Mr Stewart described Mr Crooke's role as initially being to explain to members of the government: '...the story of A2, the benefits to Dairy Australia and those types of things'.⁹⁴ One of Mr Crooke's objectives, as set out in the Asia Pacific Corporation's *Proposal for A2 Corporation – Government and media relations strategy* signed by Mr Crooke and dated 18 February 2004, was:

... To explore the prospect for financial assistance from industry support schemes offered by State and Federal Governments e.g. Research and Development Grants; assistance under the Federal Government Sustainable Regions Programme.⁹⁵

6.75 Mr Stewart told the Committee that Mr Crooke organised and attended several meetings between A2DM and members of the Australian Government, including a meeting in early April 2004 with the Hon Warren Truss MP, then Minister for Agriculture, Fisheries and Forestry. Mr Stewart described the purpose of this meeting as being '...just to explain the way we were going to go about A2 and promote it. It was to advise the government out of courtesy'.⁹⁶

91 Mrs O'Connor, *Committee Hansard*, 13 April 2005, p. 11.

92 Department of the Prime Minister and Cabinet, *Guidance on caretaker conventions*, July 2004, p. 4.

93 DOTARS, *Revised RPP tables*, received 11 May 2005, p. 24.

94 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 48.

95 Asia Pacific Corporation, *Proposal for A2 Corporation – Government and media relations strategy*, 18 February 2004, in A2DM liquidator's documents, received 8 April 2005.

96 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 49.

6.76 As discussed earlier in the chapter, Mr Stewart, Mr Roberts and Mr Crooke met with the parliamentary secretary in her Brisbane electorate office on 11 June 2004. The meeting was organised by Mr Crooke. Mr Stewart said that Mr Crooke advised him approximately three weeks after the 11 June meeting that he was going to work for Parliamentary Secretary Kelly as her media adviser.⁹⁷

6.77 Concerns have been raised in other forums because Mr Crooke was not asked to provide a written statement of personal interests or a declaration of conflict of interest form when commencing employment on the parliamentary secretary's staff. However these matters were not pursued in evidence to this Committee. The parliamentary secretary also faced allegations in the House of Representatives on 2 December 2004 of conflict of interest and breaching the Ministerial Code of Conduct by approving a grant for a company that had employed a member of her staff as a political lobbyist.⁹⁸ Indeed, the Prime Minister acknowledged in the House of Representatives that Parliamentary Secretary Kelly did breach the Ministerial Code of Conduct.⁹⁹

6.78 The Committee is unable to make an assessment of the conflict of interest allegations on the evidence before it. However, it would be highly inappropriate had Mr Crooke continued his involvement with the proponents after he became an adviser to the parliamentary secretary.

Impact of the A2DM grant announcement

6.79 The announcement of the \$1.27 million dollar grant to A2DM and its subsequent withdrawal had a negative impact on the already fragile Atherton Tablelands dairy industry. Following sustained drought and the deregulation of the dairy industry in 2004, the Atherton Tablelands dairy industry was in a tenuous position. It had one major processor, which bought the majority of milk from the estimated 105 local dairy suppliers.¹⁰⁰ One submission to the inquiry said:

No doubt you are now well aware of the hardship & stress experienced by dairy farmers & their families with the advent of deregulation and the subsequent price wars between processors resulting in unsustainable farm gate milk prices & greater profits for the processors & retailers, more particularly, the main super markets, so it is not surprising that a number of Atherton Tableland dairy farmers strongly supported the concept of another processor coming into play especially as they were being offered 40c—50c / litre...¹⁰¹

97 Mr Stewart, *Committee Hansard*, 13 April 2005, p. 58.

98 *House of Representatives Hansard*, 2 December 2004, pp 75-87.

99 The Hon John Howard MP, Prime Minister, *House of Representatives Hansard*, 9 December 2004, pp 80-81.

100 Mrs O'Connor, *Committee Hansard*, 13 April 2005, pp 15-16.

101 Mr Bell, *Submission 41*, p. 1.

6.80 The announcement of the grant with its implication of government support for the project had instilled confidence in local farmers that the project was viable and would go ahead. This encouraged a number of farmers to invest in testing their herds for, or purchasing, A2 cows. Several more spent time and money adjusting their business plans towards producing A2 milk.¹⁰² Mrs O'Connor articulated the influence perceived government support can have on business decisions:

I assume, perhaps wrongly, that, when strong government support is being provided to a project, or is perceived to be being provided to a project, farmers may be less careful than perhaps they otherwise would be.¹⁰³

6.81 This led to an inflated market price for A2 cows, which sold for approximately \$400-\$500 more than their usual price. Mr Strazzeri, a local dairy farmer for the past 32 years, told the Committee that, after attending an auction in May 2004 and seeing A2 tested cows sell for \$1,100 - \$1,200 that would normally be worth \$600-\$700, he and his son had paid a premium for A2 tested cows:

One fellow who had been tested—Mr John Jones—had his cows for sale...So we purchased 34 head of dairy cattle from him, which were A2 tested. I have all the proof here, with the numbers of the cows and so on.

Senator CARR—How much did they cost?

Mr Strazzeri—They cost \$1,000 each.

Senator McLUCAS—How would that compare with the going price of an A1 cow?

Mr Strazzeri—The same fellow sold the rest of them for \$600.

Senator McLUCAS—So you paid a premium of \$400?

Mr Strazzeri—I paid \$400 more than I should have.¹⁰⁴

6.82 The Committee received evidence about the effects of the grant withdrawal:

Some farmers spent considerable sums of money on the strength of the proposed grant. De-anne Kelly was adamant that the money was available and that we could confidently go ahead with our preparations for supplying A2 milk. One farmer went straight out and spent \$30,000 [p]urchasing A2 positive cows. These people should be compensated for the expense incurred on the strength of a political promise of funds that in hindsight were only ever intended to be used for political purposes.¹⁰⁵

6.83 In evidence to the Committee, Mrs O'Connor made a recommendation aimed at avoiding these market distorting effects by making it clear that the announcement of a grant does not necessarily mean that the grant will be awarded:

102 Mrs O'Connor, *Committee Hansard*, 13 April 2005, p. 6.

103 Mrs O'Connor, *Committee Hansard*, 13 April 2005, p. 6.

104 *Committee Hansard*, 13 April 2005, pp 87-88.

105 Mr Bell, *Submission 41*, p. 3.

Firstly, at the announcement of a grant, especially when it involves other stakeholders, it should be clearly stated that the announcement is only a step in the process. Further due diligence should continue and the project should not be a goer until contracts have been executed by both the applicant and the minister.¹⁰⁶

Conclusion

6.84 The Committee believes the government must consider delaying grant announcements until all conditions of the grant have been met in full. A2DM's application was received by DOTARS on 9 July 2004, FNQACC's advice was provided to DOTARS on 26 August, DOTARS provided advice to the parliamentary secretary on 27 August and the project was approved on 29 August. This stands in stark contrast to the many projects that remain unconsidered by DOTARS or the minister several months after an application has been received and recommendations passed on by the ACC.

6.85 The case of A2DM raises serious concerns about the administration of the Regional Partnerships Program. In particular, it exposes the risks inherent with fast-tracking applications and failing to heed an area consultative committee's warning that a project application required more investigation and development. The Committee is also extremely concerned that A2DM funding was approved and the announcement was made before proper probity and due diligence checks were undertaken.

6.86 The Committee believes that the government must accept responsibility for expressing support for projects that are ultimately doomed to fail, and the consequences that reach beyond the proponent throughout the local community and industry—even in cases where no public funding was expended.

6.87 The Committee is appalled that projects of questionable merit and sustainability are fast-tracked at the expense of regionally-worthy projects supported and developed by local ACCs, which are often rejected by the delegate with little explanation or simply stuck at the departmental or ministerial level for months.

106 Mrs O'Connor, *Committee Hansard*, 13 April 2005, p. 3.

Chapter 7

Primary Energy Pty Ltd

Introduction

7.1 On 2 August 2004, the Hon Jim Lloyd MP, Minister for Local Government, Territories and Roads, approved a \$1.2 million RPP grant under the SONA procedures for Primary Energy Pty Ltd to assist it to raise capital to build an ethanol plant at Gunnedah, in the New England region of New South Wales.

7.2 This chapter discusses the project background and traces the grant application and approval process. The Primary Energy case highlights concerns about the administration of applications made under one program but funded under another, the way the SONA guidelines are employed to circumvent eligibility restrictions and the latitude for intervention at the ministerial level under discretionary programs such as RP.

Background

7.3 Ethanol is an alcohol which can be used for a variety of purposes. In particular, ethanol can be blended with petrol to provide a fuel used for transport. It can be manufactured from a range of agricultural crops such as wheat and sugar cane.¹ According to Primary Energy, the proposed ethanol plant (or 'bio-refinery') would use around 300,000 tonnes of grain to produce 120 million litres of fuel grade alcohol and 90,000 tonnes of high protein stock feed meal per annum.²

7.4 The grant recipient, Primary Energy Pty Ltd, describes itself as 'an Australian renewable energy company'.³ The company and its managing director, Mr Matthew Kelley, are based in the Gunnedah region, as will be the proposed ethanol plant. Gunnedah is located in the federal electoral division of Gwydir. The local member for this electorate is the former Deputy Prime Minister and former Minister for Transport and Regional Services, the Hon John Anderson MP.

Application

7.5 Primary Energy initially applied for funding for its ethanol plant project under the Namoi Valley Structural Adjustment Package (Namoi Valley SAP). The Namoi

1 M. Roarty and R. Webb, "Fuel Ethanol – Background and Policy Issues", *Parliamentary Library Current Issues Brief No. 12 2002-03*, 10 February 2003, pp 1-2.

2 NENWACC, *Namoi Valley Structural Adjustment Package Application Form*, p. 9, in answers to questions on notice, received 15 July 2005.

3 NENWACC, *Namoi Valley Structural Adjustment Package Application Form*, p. 6, in answers to questions on notice, received 15 July 2005.

Valley SAP was established in September 2002 and its purpose as explained to the Committee was to:

...enhance the ability of business and the community to deal with the economic downturn imposed by the introduction of the New South Wales government's water sharing plan.⁴

7.6 The New England North West Area Consultative Committee (NENWACC) established a sub-committee, known as the Namoi Valley Structural Adjustment Committee, to deal with applications made under the SAP.

7.7 Mr Humphries, Chairman of NENWACC explained that funding under the Namoi Valley SAP also aimed to assist the region's traditional agricultural enterprises to diversify, for example into tourism, horticulture and viticulture industries.⁵

7.8 On 6 February 2003, Primary Energy submitted an expression of interest under the Namoi Valley SAP.⁶ This was followed in June 2003 by a more detailed application seeking \$1.5 million funding from the Structural Adjustment Package.⁷ In this application, Primary Energy proposed to commence construction of the plant in January 2004, with a completion date around January 2005.⁸

7.9 A key point to note is that the grant application was not to fund the actual construction of the ethanol plant itself, but to assist the project to get off the ground financially before construction started. As Dr Dolman of DOTARS explained to the Committee:

...this project was not a project about building the ethanol plant; it was actually to assist Primary Energy to raise capital to build the ethanol plant.⁹

7.10 Ms Riggs of DOTARS, likewise, clarified the purpose of the funding:
the project that we have provided funding for is not about the capital construction of anything; it is a precursor to the possibility that this

4 Mr Humphries, Chairman, NENWACC, *Committee Hansard*, 29 June 2005, p. 62.

5 Mr Humphries, *Committee Hansard*, 29 June 2005, p. 63.

6 NENWACC, *Namoi Valley Structural Adjustment Package Expression of Interest*, p. 9, in answers to questions on notice, received 15 July 2005; see also Mr Humphries, Chairman, NENWACC, *Committee Hansard*, 29 June 2005, p. 79.

7 *Committee Hansard*, 12 August 2005, p. 48.

8 NENWACC, *Namoi Valley Structural Adjustment Package Expression of Interest*, p. 9, in answers to questions on notice, received 15 July 2005.

9 *Committee Hansard*, 17 August 2005, p. 20; see also Ms Riggs, DOTARS, *Committee Hansard*, 17 August 2005, p. 22; and Correspondence from Mr Kevin Humphries to the Hon Wilson Tuckey MP, dated 26 June 2003, in additional information provided by NENWACC, *Minutes and recommendations - Namoi Valley Structural Adjustment package material relating to Primary Energy Pty Ltd*, received 26 June 2003.

company might secure capital to proceed with the construction of the plant.¹⁰

7.11 This point was reinforced by one of Primary Energy's advisers, Mr Josh Carmody, a partner in the law firm Baker and MacKenzie. Mr Carmody explained that funding had been sought 'essentially to take a greenfield infrastructure project to financial close', that is, to enable Primary Energy to arrange the financing to build the plant. Mr Carmody said that the funding was intended to 'relieve some of the cost burden' from Mr Kelley as he attempted to attract financial partners to support the project.¹¹ He also put the rationale for seeking government assistance into perspective, pointing to the difficulties facing fledgling projects in regional areas:

To take any project that is being financed on a project finance basis to financial close is a challenging task, and for any piece of greenfield infrastructure in regional Australia where the capital cost is in the order of \$100 million it is a challenging task.¹²

7.12 The application suggested that the regional benefits of the proposed ethanol plant included the creation of 50 permanent jobs and 350 indirect jobs in the region, as well as an injection of around \$1.083 billion into the region over a five year period. The application also claimed that, among other things, the ethanol plant would be a 'catalyst' for construction of a natural gas pipeline in the region.¹³ However, the committee subsequently heard that the viability of the pipeline was not contingent on the Primary Energy ethanol plant. Indeed, construction of the pipeline recently started in the absence of the ethanol plant.¹⁴

7.13 The application provided a business plan and other materials, including correspondence providing documentary support for the project. However, the NENWACC declined to provide the business plans and these other materials to the Committee. Mr Kelley subsequently provided *in camera* information containing details of the Primary Energy business model.¹⁵

7.14 The Committee notes the application also listed a number of highly placed government figures as referees willing to express support for the project. These included a member of the Prime Minister's Office, the head of the Prime Minister's energy taskforce and three federal ministers, including the local member, the then

10 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 22.

11 Mr Carmody, *Committee Hansard*, 15 September 2005, p. 3.

12 Mr Carmody, *Committee Hansard*, 15 September 2005, p. 3.

13 NENWACC, *Namoi Valley Structural Adjustment Package Application Form*, p. 11, in answers to questions on notice, received 15 July 2005.

14 Mrs Margaret Thomas, Chair, Central Ranges Natural Gas and Telecommunications Association Inc and Mr David Adams, Managing Director, Central Ranges Natural Gas Pipeline Pty Ltd, *Committee Hansard*, 11 August 2005, pp 30-33.

15 Mr Kelley, *in camera* answers to matters taken on notice, 2 October 2005.

Deputy Prime Minister and Minister for Transport and Regional Services, Mr Anderson.¹⁶ Mr Kelley informed the Committee that he had not contacted any of these individuals to seek their permission to list them as referees for the project. It appears that he had met them all in connection with briefings he gave various ministerial offices on the project. He told the Committee that he had had more contact with Mr Anderson due to Primary Energy's base in his electorate.¹⁷

7.15 At a meeting on 24 June 2003, the Namoi Valley Advisory Committee considered the application and proposal. Primary Energy also gave a presentation to that committee at this meeting.¹⁸ The subcommittee recommended that Primary Energy be offered \$1 million.¹⁹ The application was also endorsed by the NENWACC on 26 June 2003.²⁰

7.16 Mr Humphries, in his capacity as Chair of the Namoi Valley Advisory Committee,²¹ wrote to the Hon Wilson Tuckey MP, who was then Minister for Regional Services, Territories and Local Government. The letter, dated 26 June 2003, recommended that Primary Energy be given \$1 million under the Namoi Valley SAP. This recommendation was 'contingent on a positive financial "due diligence" exercise'. At the same time, the letter also stated that:

The "due diligence" investigation of Primary Energy Pty Ltd has been managed by the Department of Transport and Regional Services and no obvious financial risks were identified in providing this funding.²²

7.17 The consideration of the application and Mr Humphries's letter to the minister occurred on the eve of the termination of the Namoi Valley SAP. As is discussed later in the chapter, the impending termination of the program and the implications for the application do not appear to have been taken adequately into account at this point of the process.

16 NENWACC, *Namoi Valley Structural Adjustment Package Application Form*, pp 17-18, in answers to questions on notice, received 15 July 2005.

17 Mr Kelley, *Committee Hansard*, 15 September 2005, p. 16.

18 Mr Humphries, *Committee Hansard*, 29 June 2005, p. 79. See also Mr Carmody, *Committee Hansard*, 15 September 2005, p. 3.

19 *Committee Hansard*, 29 June 2005, p. 85; see also additional information provided by NENWACC, *Minutes and recommendations - Namoi Valley Structural Adjustment package material relating to Primary Energy Pty Ltd*, received 26 June 2003.

20 NENWACC, *Minutes and recommendations - Namoi Valley Structural Adjustment package material relating to Primary Energy Pty Ltd*, additional information received 26 June 2003; see also Mr Humphries, *Committee Hansard*, 29 June 2005, p. 63.

21 Mr Humphries was also chair of NENWACC.

22 Correspondence from Mr Kevin Humphries to the Hon Wilson Tuckey MP, dated 26 June 2003, in additional information provided by NENWACC, *Minutes and recommendations - Namoi Valley Structural Adjustment package material relating to Primary Energy Pty Ltd*, received 26 June 2003; see also *Committee Hansard*, 29 June 2005, p. 85.

Adequacy of due diligence

7.18 The Committee's concerns mentioned in Chapter 2 about the adequacy of due diligence testing of applications are manifest in the Primary Energy case. No evidence was provided to corroborate Mr Humphries' claim to the minister that the department had 'managed' a due diligence investigation of Primary Energy at this stage.

7.19 The extent to which the department did investigate the company seems limited to background checks on Mr Kelley and his co-developers, but these checks apparently occurred well after Mr Humphries's letter to the minister, when the department was under ministerial pressure to process the application. (This is discussed below.) The checks showed, according to Dr Dolman, that Mr Kelley and his associates had 'extensive experience in developing greenfields infrastructure assets and operating and maintaining renewable fuel facilities'.²³ The department also sought additional information about the project from the applicant and his advisers.²⁴

7.20 The confusion about the responsibility for conducting due diligence, also mentioned in Chapter 2, seems apparent in this case. The department's evidence suggested that the checking of the applicant's bona fides and the project's viability and risk was done at the advisory committee level. Dr Dolman told the Committee that the Namoi Valley SAP committee put the project through a 'process of checking' and that it had also been considered by NENWACC.²⁵ Mr Humphries, the chair of both the Namoi Valley SAP committee and NENWACC, in his letter to the minister said the department had 'managed' the due diligence process. In this case, it seems the left hand did not know what the right hand had done.

7.21 As to the risk assessment of the project, Dr Dolman observed:

I guess also that, while there is a degree of risk associated with any project, this in essence was a fairly high risk project. It also had very significant benefits for the community.²⁶

7.22 Under the department's procedures at the time, the level and nature of due diligence depended on the size and nature of the project, with private enterprises subject to more extensive checks than public entities such as councils. The assessment of financial risk of applicants and the commercial risk of projects was also meant to be conducted by external consultants. For a 'fairly high risk project' like Primary Energy involving over \$1 million in funding, a high level risk assessment conducted by external consultants should have been automatic. However, the department was unable to satisfy the Committee that adequate due diligence for a project of the size and level of risk of Primary Energy had been conducted or that departmental procedures had

23 Dr Dolman, *Committee Hansard*, 17 August 2005, p. 20.

24 Dr Dolman, *Committee Hansard*, 17 August 2005, p. 20.

25 Dr Dolman, *Committee Hansard*, 17 August 2005, p. 20.

26 Dr Dolman, *Committee Hansard*, 17 August 2005, p. 20.

been followed. The Committee considers that the Primary Energy case is one example of possible systemic weaknesses in the administrative procedures around due diligence of funding grants (other examples are discussed in Chapters 6 and 10).

7.23 Two further factors that might account for the inadequate due diligence with this application relate to the way the application was handled within the department, where the application appears to have been sidelined for a year and then processed under urgent pressure from ministers' offices. These are discussed in the next section.

Transfer to Regional Partnerships Program

7.24 Shortly after the application was sent to the minister, the RPP commenced on 1 July 2003. The Namoi Valley SAP ceased to exist and was brought under the umbrella of the RPP.²⁷

7.25 Primary Energy's application did not progress any further for another year. The applicants themselves were not informed of the reason for the delay. In Mr Carmody's view:

The application was submitted and there was an inordinate amount of delay. We subsequently learnt that there was this rolling over of the Namoi Valley package into a successor funding arrangement. From the applicant's perspective, to some extent it [was] a mystery of the machinery of government...²⁸

7.26 Ms Riggs of DOTARS explained her understanding that the application, along with a number of other projects related to the Namoi Valley SAP, was 'put on hold until it became clearer how NSW might be proceeding with its water sharing arrangements'.²⁹ The relevance of the water sharing arrangements to these projects remains unclear. It seems strange to the Committee, however, that a concern of such magnitude as to delay consideration of several projects for a lengthy period time was not flagged earlier on in the application process by the regional DOTARS officer with the local ACC. It also seems an extraordinary administrative oversight by the department that the applicant was not informed of the reason for the delay during this time.

7.27 Then, on 5 July 2004, over one year later, Senator Ian Campbell, then Minister for Local Government, Territories and Roads, wrote to the Acting Deputy Secretary of DOTARS declaring that 'sufficient progress had been made by the company on the project to warrant its [the application] now being assessed'.³⁰ In sharp contrast to the 'inordinate delay' over the previous year, Senator Campbell requested

27 DOTARS, *Submission 14*, p. 11.

28 Mr Carmody, *Committee Hansard*, 15 September 2005, p. 17.

29 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 49.

30 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 50.

the department 'progress the application so that the funds can be provided within the next two weeks'.³¹

7.28 The Committee received little other evidence about the reasons for the minister's intervention at this point in time, nor the reasons the application was then required to be dealt with urgently (within two weeks), when it had been on hold for the past year. The Committee does observe, however, that the minister's request to expedite the application occurred in the lead up to the announcement of the federal election when there was a surge in funding approvals. As was shown in Chapter 2, over half of the total RPP funding was approved during this period.

7.29 On 9 July 2004, the law firm, Baker and McKenzie, provided a letter and supplementary information to DOTARS on behalf of Primary Energy. This letter indicated that an oral briefing had been given by Baker and McKenzie to Mr Peter Langhorne, a senior adviser to the then Minister for Transport and Regional Services, John Anderson.³² In view of Mr Langhorne's subsequent intervention in the process on this matter (discussed below), this briefing may also have been a factor in the apparently sudden interest in the project within government circles.

7.30 According to the evidence from DOTARS, the supplementary information from Baker and McKenzie included:

...advice on the nature of the project and it also included reference to the fact that capital reserves were not a significant issue for this project given that it was about raising funds to build a plant.³³

7.31 This advice helped to inform the department's assessment of the application and its subsequent brief to the minister on approving funding for the project, which is discussed in the next section.

Changes in departmental advice to the minister

7.32 On 23 July 2004, DOTARS provided advice to Minister Lloyd's office, who became Minister for Local Government, Territories and Roads on 18 July 2004, on the application from Primary Energy ('the original advice'). The junior minister, Minister Lloyd, was the relevant decision-maker in this case, rather than the former Minister for Transport and Regional Services, the Hon John Anderson MP. This was because, as noted earlier, the project is located in the electorate held by the former Minister Anderson. As DOTARS explained to the Committee:

...it was established practice in the portfolio that if a project were in a minister's electorate then one of the other ministers or the parliamentary secretary would become the decision maker, even if it was otherwise common for that program to be the subject of the first minister. So that was

31 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 9.

32 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 9.

33 Dr Dolman, *Committee Hansard*, 17 August 2005, p. 20.

common and established practice in the portfolio. It was also established practice in the portfolio that any briefing to either the junior minister or the parliamentary secretary was copied to the portfolio minister.³⁴

7.33 Witnesses from DOTARS refused to reveal the nature of the recommendation made in this original advice to the Minister, on the ground that it constituted advice to the minister.³⁵ In the introduction to the report, the Committee has commented on the illegitimacy of this ground as a basis for a claim to withhold information from the Senate or one of its committees.

7.34 Subsequent events, as outlined below, suggest that the department's original recommendation may have been to reject the funding application from Primary Energy.

7.35 A few days after the original advice was sent to Minister Lloyd, on either the 26 or 27 July 2004, the then Acting Secretary of DOTARS, Ms Lynelle Briggs, took a call from Mr Langhorne, chief of staff to Minister Anderson, in relation to the Primary Energy application. According to evidence from Ms Briggs, Mr Langhorne drew her attention to the department's original advice, and said to her that it 'failed to take regard of a letter that Ms Riggs had received from Senator Campbell'.³⁶ The Committee queried whether Mr Langhorne asked for the recommendations in the minute to be altered:

Senator O'BRIEN—Following, you suspect, the receipt of a copy [of the department's advice] in Minister Anderson's office, Mr Langhorne rang you as the acting secretary to ask you to have the recommendations altered?

Ms Briggs—He rang me, as I said, to ask me whether I had seen Senator Campbell's letter. He did not think the minute accurately reflected that. Clearly, his intent was to see if I agreed with that and to take it from there. I would hasten to add that he did not put me under any duress to change the minute nor would he have, because we operated on some quite clear operating environments in that office around the department's advice being the department's advice.³⁷

7.36 The department's original advice of 23 July 2004 was then withdrawn at the request of the acting secretary of DOTARS. Ms Lynelle Briggs explained to the Committee:

I read the correspondence from Senator Campbell and the minute that had gone across to the office [of Minister Lloyd]. I formed the view, in doing so, that the minute was inadequate. It did not give due regard to Minister

34 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 18.

35 *Committee Hansard*, 17 August 2005, pp 11, 15-16; see also *Committee Hansard*, 12 August 2005, p. 55.

36 *Committee Hansard*, 17 August 2005, p. 3.

37 *Committee Hansard*, 17 August 2005, p. 4.

Campbell's correspondence and it may therefore have misled the new minister, Minister Lloyd, about the chain of events and the circumstances at that stage.

When I met with the officials concerned, I said to them that that was my view and that I thought that the department's brief did not responsibly and rigorously deal with a request that Minister Campbell had made in that letter. For that reason, I thought the minute was inadequate; that is probably the description I would use. When a minister makes a request of his department—and it is very rare that a minister does that in writing—then it is my professional view that it is the department's responsibility to see that that request is implemented. That was, in effect, what I said to the staff.

I then asked that the minute be withdrawn.³⁸

7.37 Minister Lloyd's office also returned the original brief to the department, with the annotation 'As discussed, please provide replacement brief'.³⁹

7.38 Ms Briggs was at pains to point out to the Committee that, although the Minister's office had received the original advice, the advice had not actually been read by Minister Lloyd.⁴⁰ Ms Briggs explained that, in her view, her role in the process was:

...to ensure that the minister's request was implemented and that the department operated professionally at all times in its handling of the issue. It was also to ensure that Minister Lloyd was advised on the outstanding issues.⁴¹

7.39 DOTARS revised the advice in relation to the Primary Energy project, and provided the new advice to Minister Lloyd on 28 July 2004. On 2 August 2004, just weeks before the 2004 federal election was announced, Minister Lloyd approved \$1.2 million in RP funding for the project.⁴²

7.40 Before examining the progress with the project to date, the Committee outlines its concerns about three aspects of the assessment of the Primary Energy application: the intervention in the department's assessment and advice on the application by ministers and their staff; conflicting evidence to the Committee from departmental officers; and the use of the SONA guidelines to bypass the eligibility criteria of the RP program.

38 *Committee Hansard*, 17 August 2005, p. 3.

39 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 16.

40 Ms Briggs, *Committee Hansard*, 17 August 2005, p. 4.

41 Ms Briggs, *Committee Hansard*, 17 August 2005, p. 4.

42 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 9.

Ministerial intervention in departmental assessment

7.41 The Committee has four concerns about the intervention by either ministers or their staff in the department's consideration of the application. First, the direction from Senator Campbell on 5 July 2004 'to progress the application so that the funds can be provided within the next two weeks'⁴³ seemed to pre-empt any assessment of the project under the RPP. Instead, as discussed later in the chapter, the application had to be assessed under the (then) unpublished SONA guidelines.

7.42 Second, the Committee is equally concerned with the degree of intervention on the part of a ministerial staffer that caused the department to revise its advice on the project. Although the Committee was not provided with a copy of either the original advice or Minister Campbell's letter, there can be little doubt based on Ms Briggs's words that the revised brief differed significantly from the original brief tendered to Minister Lloyd. According to evidence received from Ms Briggs, the revised advice was 'consistent with the request from Minister Campbell and the agreed programme guidelines'.⁴⁴ When questioned about the changes, Dr Dolman indicated:

Senator O'BRIEN—I think we can take it that the brief would have had to have been changed substantially as a result of that interception and intervention.

Dr Dolman—It is probably fair to say there was a change in nuance.⁴⁵

7.43 Dr Dolman's claim that the difference between the two briefs was merely a 'change in nuance' is difficult to reconcile with Ms Briggs's description of the original advice as 'inadequate' in that it 'did not responsibly and rigorously deal with' Minister Campbell's direction that funding for the project proceed.

7.44 That said, it is hard to accept that the original advice 'did not give due regard' to Minister Campbell's letter, in the way that Ms Briggs suggested. Dr Dolman, the DOTARS officer who signed the original advice to the Minister, gave evidence to the Committee that he was aware of Minister Campbell's letter when the original advice was prepared, and indeed that the letter was appended to the original advice.⁴⁶ It seems to the Committee more likely that the original advice placed different weight on factors relevant to the eligibility and viability of the project than did the minister's letter, and that the department initially came to a quite different conclusion to Minister Campbell as to whether the project should be funded.

7.45 The involvement of Mr Langhorne, the chief of staff in Minister Anderson's office, raises two further concerns about the decision making process in relation to this grant. The first is the growing tendency of ministerial staff to act as proxies for their

43 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 9.

44 *Committee Hansard*, 17 August 2005, p. 9.

45 *Committee Hansard*, 12 August 2005, p. 57.

46 *Committee Hansard*, 17 August 2005, p. 24.

ministers by inserting themselves into the internal decision making of departments or – as was seen in the Tumbi Creek case in Chapter 5 – administration of programs.⁴⁷

7.46 The other, arguably greater, concern in this case is that Mr Langhorne's involvement in the formulation of the departmental advice to the minister transgressed the department's practice of quarantining ministers from decisions related to projects from their own electorates. As Minister Anderson's chief of staff, Mr Langhorne was effectively acting in his minister's name, even if the minister had not been personally privy at that stage to the detail of the application. Because the application concerned a project in Minister Anderson's electorate, neither the minister nor any of his staff should have been involved in any way with the decision making on the project. By intervening to have an advice from the department to another minister changed, Mr Langhorne gave rise to a possible conflict of interest.

7.47 As this example illustrates, the department's practice of copying all briefs to the senior portfolio minister (in this case, Mr Anderson) is at cross purposes with the practice of keeping ministers at arm's length from applications originating in their own electorate. The Committee believes that in cases such as the Primary Energy application, the portfolio minister *and* his office should be quarantined from all departmental briefs until *after* a decision has been made.

Conflicting evidence

7.48 The Committee is concerned about a marked disparity in the evidence presented by departmental officers during its examination of the two briefs that went to the minister. The Committee examined this matter with departmental officers over two hearings, on 12 and 17 August 2005.

7.49 At the 12 August hearing, departmental officers indicated that the department had received a letter from Mr Langhorne in relation to the Primary Energy application. When asked about the letter, Ms Riggs stated:

Senator O'Brien – can you confirm that you did receive a letter from Mr Langhorne – the senior adviser to the former Minister for Transport and Regional Services – in relation to this application?

Ms Riggs – yes, I believe I did.⁴⁸

7.50 Ms Riggs went onto say that she was on leave when the letter was sent to the department, and then commented:

But I have seen it since. I believe there is such a letter.⁴⁹

47 See Senate Finance and Public Administration References Committee, *Staff employed under the Members of Parliament (Staff) Act 1984*, October 2003, particularly chapter 2.

48 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 50.

49 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 50.

7.51 A little later in her evidence Ms Riggs qualified her knowledge of such a letter, saying that her answers were made on the basis of 'the presumption of the accuracy of my memory that such a letter exists'.⁵⁰

7.52 Dr Dolman also told the Committee he recalled seeing the letter from Mr Langhorne about the Primary Energy application:

Senator O'Brien – You saw Mr Langhorne's letter, didn't you?

Dr Dolman – I did see Mr Langhorne's letter. I am not sure I can recall the full details, but I know the brief we provided did address the issues raised in that letter and in the letter that Minister Campbell had written.⁵¹

7.53 This evidence left the impression that the letter from Mr Langhorne had influenced, if not been instrumental in causing, the revision of the original brief to the minister on the Primary Energy application.

7.54 However, at the hearing on 17 August Ms Riggs told the committee that following her evidence on 12 August a search of departmental files had failed to locate any letter from Mr Langhorne concerning the Primary Energy application. Ms Riggs instead pointed to the letter the department had received from the law firm, Baker and McKenzie, on behalf of Primary Energy. Ms Riggs said she believed that it was the Baker and McKenzie letter she had had in mind when responding to the Committee's questions about a letter from Mr Langhorne.⁵²

7.55 Dr Dolman, on the other hand, at the hearing on 17 August told the Committee that he had been referring to the letter from Minister Campbell to the department when responding to questions about the Langhorne letter. Dr Dolman went on to suggest that he thought that he and Ms Riggs had between them mixed up the letters from Baker and McKenzie and from Minister Campbell when answering questions at the earlier hearing.⁵³

7.56 The Committee finds these explanations unconvincing. Ms Riggs told the Committee on 12 August in response to questioning that she had seen a letter from Mr Langhorne. She did not seek to take the matter on notice as would normally be the case, particularly if a senior departmental witness had some doubts about the existence of a letter from a senior minister's chief of staff. Dr Dolman, who on 12 August did not qualify the 'accuracy of his memory', had a clear recollection of the letter as he advised that the issues it raised were addressed in the second, revised brief that went to the minister on the Primary Energy application. At the earlier hearing he also referred to a separate letter from Minister Campbell. His later claim on 17 August that

50 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 50.

51 Dr Dolman, *Committee Hansard*, 12 August 2005, p. 58.

52 Ms Riggs, *Committee Hansard*, 17 August 2005, pp. 8-9.

53 Dr Dolman, *Committee Hansard*, 17 August 2005, p. 10.

he was referring to the minister's letter when answering questions about a letter from Mr Langhorne is therefore not a satisfactory explanation for the shift in his evidence.

Funding eligibility and the SONA procedures

7.57 Another aspect of particular concern about the Primary Energy application is the processing of it under the SONA guidelines. A number of the Committee's general concerns about the use of these guidelines, discussed in Chapter 2, are thrown into sharp relief in this case.

7.58 The application process relating to Primary Energy was complicated by the fact that the funding application from Primary Energy was assessed under the RPP, even though the application was initially made and assessed under the Namoi Valley SAP. Ms Riggs explained to the Committee that, with the lapsing of the SAP, the only mechanism available to progress the application at the time was through the Regional Partnerships appropriation:

...the Namoi Valley Structural Adjustment Package had not been allocated discrete funding by the government, so if the application was to be progressed it had to proceed under the funding envelope of the Regional Partnerships Program. The initial assessment was under the Namoi Valley Structural Adjustment Package guidelines which had been separate and had different elements from those of Regional Partnerships.⁵⁴

7.59 DOTARS used the application made under the Namoi Valley SAP and some additional material, including the information provided by Baker and McKenzie, to assess the project under the RPP.⁵⁵

7.60 However, Primary Energy's application did not meet the RPP guidelines. In particular, the RPP guidelines provide that commercial enterprises requesting funding for planning, studies or research are not eligible for RPP funding.⁵⁶ The evidence to the Committee shows that the grant to Primary Energy has been expended on, among other things, a CSIRO study, research on a production life cycle analysis and project planning.⁵⁷ The RPP guidelines also provide that projects will be ineligible where they are requesting funding for 'seed funding for the development of prospectuses'.⁵⁸ When asked to confirm that the grant had been spent on activities ineligible under the RPP, Dr Dolman replied:

54 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 9.

55 *Committee Hansard*, 17 August 2005, pp 20-21.

56 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 6.

57 Dr Dolman, *Committee Hansard*, 12 August 2005, p. 60.

58 DOTARS, *Submission 14*, Attachment D, Regional Partnerships Guidelines, p. 7.

That is correct. Both the planning aspects of it and the fact that it involved a prospectus were outside the Regional Partnerships guidelines, but they were not outside the Namoi Valley Structural Adjustment Package guidelines.⁵⁹

7.61 Because the Primary Energy application fell outside the RPP guidelines, the department resorted to considering it under the SONA procedures instead. As outlined in Chapter 2, the SONA procedures can be used:

...where a project or initiative would require the waiver of some specific part of the guidelines or eligibility criteria.⁶⁰

7.62 In the case of Primary Energy, Dr Gary Dolman informed the Committee that:

The reason this [project] was considered under the SONA procedures was that it was an application under the Namoi Valley Structural Adjustment Package. The reason for that was that it was for a prospectus, which is precluded from funding under Regional Partnerships eligibility guidelines. Those eligibility restrictions did not apply under the Namoi Valley Structural Adjustment Package. I guess that was the reason why this was put forward under the SONA procedures: that it would have been unfair to judge the project against criteria that did not apply at the time the application was made.⁶¹

7.63 Given the apparently different criteria under the Namoi Valley SAP and the RPP, the Committee questions the appropriateness of DOTARS' use of the original application made under the Namoi Valley SAP to assess the project under the RPP. There was an apparent absence of any appropriate transitional arrangements to deal with an application such as in the Primary Energy case where a decision was pending. The Committee considers that it may have been appropriate for DOTARS to request that Primary Energy provide a fresh application under the RPP, particularly given the fact that the application was over a year old by the time DOTARS considered it again and the project timetable was out of date. This option appears to have been precluded, however, due to the urgency required for approving the application at the ministerial level.

7.64 In this regard, there is a strong sense from the evidence that a decision was made at a senior ministerial level to get funding for the project regardless of program criteria or constraints and that the department was left to find the vehicle to achieve this end.

7.65 The Committee considers that the funding granted to this project illustrates the way in which the SONA procedures can circumvent, and even undermine, the RPP guidelines and eligibility criteria. Indeed, the SONA criteria appear to be so broad that

59 Dr Dolman, *Committee Hansard*, 12 August 2005, p. 59.

60 DOTARS, *Submission 14*, Attachment H, Procedures for SONA, p. 1.

61 *Committee Hansard*, 12 August 2005, p. 58.

the government can, as it has in this case, apply the SONA procedures arbitrarily to fund almost any project the government feels inclined to fund.

Project progress and outcomes

7.66 For the Committee, the fact that construction of the ethanol plant has yet to be confirmed, let alone started, casts further doubts on the merits and viability of the funding grant to Primary Energy. The Committee sought to identify the progress made with the project, what the grant money had been expended on and when construction on the plant will start and production begin.

7.67 Following the minister's approval of the grant on 2 August 2004, DOTARS and Primary Energy entered into a funding agreement in relation to the ethanol plant project on 28 September 2004. Grant payments of just over \$1 million have now been paid to Primary Energy for meeting various milestones under the funding agreement.⁶² Payments have been made as follows:

- the first payment, on 29 September 2004, of \$426,800, made on signing of the funding agreement;
- a second payment, on 27 January 2005, of \$342,100 for meeting milestone one of the agreement; and
- a third payment, on 11 May 2005, of \$235,400 for meeting milestone two of the agreement.⁶³

7.68 According to the department, these initial milestones involved:

...work on plant design and specifications, further legal fees, further project management and project development, further office expenditure and travel, some promotional activities, some tax-structuring advice and project accounting.⁶⁴

7.69 The Committee was concerned to discover that the first payment of \$426,800 was simply for signing of the contract between the department and Primary Energy. This is in contrast to the milestones other projects have had to achieve, even in cases involving lower amounts of grant funding. The department indicated that the first payment reflected a direction in Minister Campbell's letter for an instalment to be paid as soon as possible on approval of the application due to some urgency with the project.⁶⁵ However, in the Committee's view the urgency with the first payment may have as much reflected the year long delay in the processing the application as anything else.

62 Dr Dolman, *Committee Hansard*, 12 August 2005, pp 60-61.

63 Dr Dolman, *Committee Hansard*, 12 August 2005, pp 60-61.

64 Dr Dolman, *Committee Hansard*, 12 August 2005, p. 61.

65 Dr Dolman, *Committee Hansard*, 12 August 2005, p. 60.

7.70 The Committee notes also that the funding agreement was varied on 6 July 2005, among other things, to specifically refer to funding for a CSIRO study.⁶⁶ Ms Riggs explained to the committee:

...the approved project includes work under contract by the CSIRO. I am advised that Primary Energy approached CSIRO in September 2003 with a request to undertake the study. However, work on the study did not commence until 14 October 2004 after the signing of the funding agreement and the first payment.⁶⁷

7.71 A payment of \$155,100 was due to be paid on 1 August 2005 for meeting milestone three of the funding agreement. Evidence to the committee did not indicate whether Primary Energy had met this milestone, or whether the payment had been made. A final payment of \$50,600 is to be paid on 1 March 2006 on meeting milestone four of the funding agreement.⁶⁸

7.72 Mr Kelley, the managing director of Primary Energy, told the Committee that 'we have gone the extra step and we have had each milestone payment externally audited in accordance with the [funding] agreement'.⁶⁹ The department confirmed that it had received detailed reports on project activity against the first two milestones.⁷⁰

7.73 In discussing the project's progress, Ms Riggs reminded the Committee that the milestones relate not to plant construction but are 'about doing the necessary work in order for this company to then approach the capital market in order to attract funds, which would then facilitate the construction of an ethanol plant'.⁷¹

7.74 In terms of the project's timetable, on 15 September 2005 Mr Kelley told the Committee that:

We have 12 to 18 months of build time, so that is why we are not producing ethanol now. We are aiming to financially close this project this year, which does not give us long, but it is possible and we are hoping to be in production by the first quarter of 2007.⁷²

7.75 The Committee also took confidential evidence from Mr Kelley and Mr Carmody about the structure of the project finance for the plant and the identity of the

66 DOTARS, *Regional Partnerships Funding Agreement between DOTARS and Primary Energy Pty Ltd*, tabled 12 August 2005.

67 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 9.

68 Dr Dolman, *Committee Hansard*, 12 August 2005, p. 61; see also DOTARS, *Regional Partnerships Funding Agreement between DOTARS and Primary Energy Pty Ltd*, tabled 12 August 2005.

69 Mr Kelley, *Committee Hansard*, 15 September 2005, p. 14.

70 Dr Dolman, *Committee Hansard*, 17 August 2005, pp 22-23.

71 Ms Riggs, *Committee Hansard*, 17 August 2005, p. 22.

72 Mr Kelley, *Committee Hansard*, 15 September 2005, p. 2.

financial partners (or equity investors) who intend to invest in the project. Mr Carmody told the Committee in public evidence that Primary Energy's financial partners 'have not made any financial contribution as we speak today' but that

Those entities we have disclosed to you today have every intention of becoming equity investors...⁷³

7.76 The Committee remains concerned about the progress and viability of the Primary Energy project. It considers that DOTARS should monitor the project closely. The Committee also believes that to satisfy the Parliament that the project is on track and that public money has been expended appropriately the department should table in the Senate future external auditor's reports on progress against milestones.

Conclusion

7.77 As the Primary Energy ethanol plant is not expected to start production until 2007, it is impossible for the Committee to determine whether grant funding of \$1.2 million in this case represents value for money. However, the Committee is concerned at the approach and decision making associated with this project which the department classified as high risk. The evidence to the Committee raises more questions than it answers about the adequacy of the due diligence checks on the project, the reason for truncated time given to the department to assess the application and the role of ministerial staff in prompting the department to revise its original advice to the minister. The year long delay in processing the Primary Energy application also reveals shortcomings in transitional arrangements for applications under consideration when a program lapses.

7.78 The Committee is particularly struck by the parallels this case shares with case studies relating to Tumbi Creek and A2 Dairy Marketers discussed in Chapters 5 and 6. As with those cases, the Committee was unable to examine relevant evidence to explain why the minister at the time sought to have the assessment of the project rushed through the department. Similarly, Primary Energy adds a further example to those two cases and others of the expansion in power of ministerial staff and their ability to directly intervene in the provision of advice from departments to ministers. The cases of Primary Energy and A2 Dairy Marketers also point to possible systemic weaknesses in the RPP procedures for due diligence testing of applications. In all three cases, ministerial direction to fast-track the departmental assessment of applications occurred during the surge in funding approvals prior to the announcement of the federal election.

7.79 The Primary Energy case also demonstrates the degree to which the SONA procedures provide almost unlimited discretion for ministers to approve projects even when confronted with restrictions under the RPP guidelines. In the chapter that follows, the Committee examines another case – the funding for the National Centre of Science, Information and Communication Technology, and Mathematics Education

73 Mr Carmody, *Committee Hansard*, 15 September 2005, p. 9.

for Rural and Regional Australia – which also reveals the scope under the SONA procedures for ministers to approve projects otherwise ineligible under RPP.

Chapter 8

RPP Grants in the Electoral Division of New England

8.1 The electoral division of New England featured prominently in the inquiry due to the proliferation of issues that emerged about the operation of the Regional Partnerships Program in that electorate. As discussed in earlier chapters, applicants for SR and RP grants often seek the support of their local member of Parliament or of a senator. In many cases, all that applicants request are letters of support, but in some cases members are closely involved in the processes of grant applications, some attending meetings of interested organisations, giving advice and making personal representations to ministers. Mrs Kay Elson MP, the Member for Forde, for example, was closely involved in the grant made to Beaudesert Rail. The Independent member for New England, Mr Tony Windsor MP, was, for a number of years, a member of organisations that were seeking government and other funds for the establishment of an equine and livestock centre in Tamworth, New South Wales.

8.2 Mr Windsor's involvement in that project gave rise to a number of issues that the Committee has explored under subparagraph (1) (h) of its terms of reference. The most sensational of those issues was a claim made by Mr Windsor that he had been offered an inducement not to stand for the seat of New England.¹ The issues also included his claims that political conditions were put on grants made to three projects in the electoral division of New England, namely, the Australian Equine and Livestock Centre, the National Centre for Maths and Science at the University of New England and the Grace Munro Aged Care Facility in Bundarra.²

Australian Equine and Livestock Centre

8.3 The Australian Equine and Livestock Centre (AELC), situated in the town of Tamworth in New South Wales, was provided with a grant of \$6 million from the RP program. The Hon John Anderson MP, then Deputy Prime Minister and Minister for Transport and Regional Services, announced the grant as an election commitment on 21 September 2004.

8.4 The Tamworth community had attempted for several years to develop an expanded and updated equine centre so as to maintain the district's pre-eminent position in the Australian industry.³ The following paragraphs describe as much of the history of attempts to develop the centre as is needed to put into context Mr Windsor's allegations regarding political conditions being attached to the awarding of the grant.

1 Mr Windsor MP, *House of Representatives Hansard*, 17 November 2004, pp 151-153.

2 Mr Windsor MP, *Submission 15*, pp 2-3.

3 See, for example, Tamworth Regional Council, *Submission 16*, pp 1-5.

Background to the RP grant application

8.5 In June 2000, the Tamworth City Council established a working group comprised of local, State and Commonwealth parliamentary representatives, major horse industry associations, businesspeople and the Tamworth Pastoral and Agricultural Society to investigate the prospects of developing an equine centre.⁴ Mr Windsor, as a member of this working group, had a critical role from the earliest stages of this project. The first Commonwealth Government grant to the project (of \$33,000) was made under the Regional Assistance Program (RAP) in December 2000, to assist the Tamworth Council 'with employment of a project officer to develop capital investment strategies, business plan and projected revenue streams'.⁵

8.6 In 2001, the Tamworth City Council engaged a consultancy firm, Sinclair Knight Merz, to produce a feasibility study and a business plan for the proposed centre. In January 2002 Council made a submission, based on the Sinclair Knight Merz study and business plan, to the Commonwealth Department of the Treasury for budget funding of \$3.5 million.⁶ The Council had made a similar submission for a grant from the Regional Tourism Program on 18 October 2001,⁷ but the funding available under that program, a maximum of \$100,000 for any individual grant, was much less than was needed.⁸

8.7 On 22 February 2002, the National Party senator for New South Wales, Senator Sandy Macdonald, convened a meeting to discuss the Council's submission. The meeting was held in Minister Anderson's office in the nearby town of Gunnedah. Minister Anderson, Senator Macdonald, Mr Botfield, the then chair of the working party and former chair of the New England Area Consultative Committee (NENWACC), Councillor Treloar, Mayor of Tamworth City Council, and some other interested persons attended the meeting. Mr Windsor, the new Independent federal member for New England, apparently was not invited to the meeting.⁹

8.8 Mr Botfield informed the Committee that he had been told by another attendee at the meeting that Mr Patrick Maher, the then chair of NENWACC, who

4 Tamworth Regional Council, *Submission 16*, p. 3 and Mr Botfield, *Committee Hansard*, 29 June 2005, p. 42.

5 Tamworth Regional Council, *Submission 16*, p. 3.

6 Tamworth City Council, *2002/2003 Federal Budget Submission*, 24 January 2002, in answers to questions on notice, received 29 June 2005.

7 Mr Inglis, *Committee Hansard*, 29 June 2005, p. 5.

8 See Department of Industry, Science and Resources, correspondence to Mr Paul Anderson, Tamworth City Council, 10 November 2001, in Mr Botfield, answers to questions on notice, received 6 July 2005.

9 Mr Windsor MP, *Committee Hansard*, 3 February 2005, p. 48.

also attended the meeting, had said that 'if Tony Windsor turned up for the meeting, he would not be turned away but no discussion would take place'.¹⁰

8.9 Following the meeting, at which it was reported that Mr Anderson had said that, 'Political grandstanding was not the way to go',¹¹ Mr Anderson announced that he would ask Professor John Chudleigh, Chairman of the Independent Assessments Panel for the Regional Solutions program, to assess the proposal's financial viability.¹²

8.10 On 30 May 2002, Mr Anderson released Professor Chudleigh's report, and announced that he had reviewed the report and accepted its findings, which included a recommendation that the 'Federal Government does not provide support for the currently proposed...project'.¹³ Mr Anderson stated that he 'would be happy to consider an application from the proponents for a feasibility study on redeveloping the existing showgrounds site, possibly through the well regarded Regional Solutions Program'.¹⁴

8.11 During the remaining months of 2002 and again in 2003 the Tamworth City Council attempted to advance the establishment of the centre by, for example, commissioning a feasibility study of the 'showground option' and by corresponding and meeting with NENWACC.¹⁵

8.12 In February 2004, the Council established a second working group which was chaired by Mr Windsor's nominee, Mr Greg Maguire. In June, the Council appointed Bevan Coote and Associates 'to undertake and prepare [an] application to Regional Partnerships and to complete a full and comprehensive Business Plan'.¹⁶ This work was completed in August 2004 and on 10 August the Council and the Working Group briefed NENWACC on the new plan. On 27 August NENWACC recommended the grant to the Minister with a '4' rating, that is, recommended with a high priority. As reported earlier, the Minister announced the grant of \$6 million on 21 September 2004 during the election campaign.

First and second applications for a grant

8.13 The failure of the first submission to attract a Commonwealth Government grant and the success of the second are matters of some significance because Mr Windsor has alleged that the first application was unsuccessful only because of his association with it. Mr Windsor argued as follows:

10 Mr Botfield, *Submission 32*, p. 6.

11 'Equine Centre Talks', *The Northern Daily Leader*, 22 February 2002.

12 'Equine Centre Talks', *The Northern Daily Leader*, 22 February 2002.

13 Mr Anderson MP, Media Release A69/2002, pp 1, 4.

14 Mr Anderson MP, Media Release A69/2002, p. 1.

15 Tamworth Regional Council, *Submission 16*, p. 4.

16 Tamworth Regional Council, *Submission 16*, p. 2.

...the political conditions that were placed on the first application for funding...were put in place to find reasons to not proceed with the project (pre May 2002) whilst the second application, not being substantially different to the first, the political preconditions were about making the project happen with the appropriate political rewards by the removal of the local member, either from active involvement in the process or preferably from politics altogether.¹⁷

8.14 Other witnesses, however, did not agree with Mr Windsor's assessment that the second application was not substantially different from the first.

8.15 Mr Maguire and Councillor James Treloar, the Mayor of the Tamworth Regional Council, considered that the applications were significantly different in a number of ways. Councillor Treloar stated that:

Yes, there are similarities between the two conceptual designs, without a shadow of a doubt...But, looking at the underlying information that backs each proposal, I would have to say that they are significantly different.

...I do not know that you could even draw a comparison between the two submissions on the basis of the funding, the business plan and the underlying information they contain.¹⁸

8.16 The Tamworth Regional Council submitted comparisons of the two proposals to demonstrate those differences.¹⁹

8.17 Mr Maguire stated that:

Mr Windsor has told this inquiry that the submission recently put by the reconstituted committee of which I am chairman was the same submission as he and the committee of which he formed a part for the last 12 years had been unsuccessfully putting to the federal and state governments for support. This is patently untrue...Unlike the current submission, the previous submission was not supported by commitments to the extent of \$2 million from the equine industry and the Tamworth Regional Council...The previous submission was not self-sufficient even if the requested government funding was granted.²⁰

8.18 On the other hand, Mr Botfield, the then chair of the working group, tended to support Mr Windsor's assertion that the two proposals were essentially the same. He informed the Committee that the real difference between the two proposals was that the second submission contained an argument for total funding, but that there was some debt funding in the first submission.²¹ He did remark, however, that Professor

17 Mr Windsor MP, *Submission 15*, p. 3.

18 Councillor Treloar, *Committee Hansard*, 29 June 2005, p. 22.

19 Tamworth Regional Council, *Submission 16*, Attachments 1 and 2.

20 Mr Maguire, *Committee Hansard*, 10 March 2005, p. 3.

21 Mr Botfield, *Committee Hansard*, 29 June 2005, p. 43.

Chudleigh's adverse finding regarding the first submission was 'the knock back we had to have'.²²

8.19 The Committee's examination of the proposals indicated that there were indeed differences between the two proposals, especially with regard to the financial aspects.

8.20 Whether the two proposals could be considered 'substantially the same' is largely a subjective judgement. Nevertheless, given the differences between them, it would be difficult to sustain an argument that the different Commonwealth Government decisions taken by the Minister on the two proposals were taken solely on the grounds of (perceived) political advantage. This is not to conclude, however, that political considerations were entirely absent from the decisions.

The local member's role

8.21 The member for New England (Mr Windsor) apparently took a leading role over several years in the development of the AELC proposal.²³ He informed the Committee that he was involved in obtaining a grant from the NSW Government and that he took an active role in the establishment of the working parties that eventually were successful in obtaining the Commonwealth grant for the AELC.²⁴ Mr Windsor claimed that he was removed from close involvement in the project after 30 July 2004, prior to the grant being made by the Commonwealth Government, and that his removal was one of the political preconditions 'that were being applied to the funding submission'.²⁵

8.22 Mr Windsor told the House of Representatives on 17 November 2004 that Mr Maguire had said at a meeting with Mr Windsor, Mr Stephen Hall (Mr Windsor's campaign manager) and Ms Helen Tickle (Mr Windsor's campaign secretary) on 19 May 2004 that:

Mr Anderson said that if I tried to get any credit for the funding of the Australian Equine and Livestock Centre the funding would not take place; Mr Anderson was also concerned about my continued association with the Australian Equine and Livestock Centre, given my political position;²⁶

22 Mr Botfield, *Committee Hansard*, 29 June 2005, p. 42.

23 See, for example, Mr Maguire, Press Release of 23 November 2004, p. 2, attached to Mr Maguire, *Submission 43*.

24 Mr Windsor MP, *Committee Hansard*, 3 February, p. 34.

25 Mr Windsor MP, *Submission 15*, p.4.

26 Mr Windsor MP, *House of Representatives Hansard*, 17 November 2004, p. 152.

8.23 Ms Tickle informed the Committee that, at the meeting, 'Discussions took place regarding the strategies and conditions of the proposed announcement'.²⁷ When asked to elaborate on that statement Ms Tickle said that:

...I cannot hang off exactly every word, but it was, yes for Tony to stand aside, not to be part of it, not to be part of the announcement. It is no secret. There was no mention made of all the hard work that Mr Windsor and others had put in behind the scenes towards the project. It was clearly something the Nationals wanted to have and to be seen as providing all of this money for in the lead-up to the federal election – in the lead-up to trying to regain a seat which they had lost three years prior.²⁸

8.24 In his evidence Mr Hall stated that he did 'not recall it being discussed at the meeting by either Tony Windsor or Greg Maguire the he needed to step down from the equine centre board',²⁹ but he said that, 'Greg Maguire told Tony Windsor that the application for funding the centre was proceeding but John Anderson had told him that he was concerned that if he approved the funding that Tony Windsor would take the credit and limelight for the funding'.³⁰

8.25 Councillor Treloar was asked if anyone had suggested that the equine centre would have a greater chance of attracting funding if Mr Windsor was not associated with the project. He responded as follows:

I have heard that assumption but I do not think that I was ever told that by anyone. I have read it in different places but I certainly was not told it by anybody. The ACC never told me that.³¹

Mr Windsor's 'removal' from the second working group

8.26 Mr Windsor was a member of the second working group³² but he had little involvement in the process of producing the successful submission made for an RP grant in August 2004. Mr Windsor claims that he was removed from the working group after July 2004 at the behest of Mr Anderson. He told the Committee that:

I was informed by the chairman [Mr Maguire] that there was some disquiet from the minister over my involvement on the board. Having assumed that I would have been removed after the 19 May meeting – and I had not been – Mr Maguire told him I was not on it. That is when I was informed: 'Sorry, mate, I had to remove you'.³³

27 Ms Tickle, *Submission 5*, p. 2.

28 Ms Tickle, *Committee Hansard*, 3 February 2005, p. 67.

29 Mr Hall, *Committee Hansard*, 3 February 2005, p. 91.

30 Mr Hall, *Submission 15*, p. 2.

31 Mayor Treloar, *Committee Hansard*, 29 June 2005, p. 19.

32 Ms Thomson, *Committee Hansard*, 29 June 2005, p. 68.

33 Mr Windsor MP, *Committee Hansard*, 3 February 2005, p. 52.

8.27 Mr Windsor submitted that he did not resign from the Working Party as had been reported. He informed the Committee that:

The last Board meeting I attended was on July 30.

I was informed by Greg Maguire in a subsequent conversation that Mr Anderson went feral when he discovered I was still involved in the process having previously raised concerns at their May meeting.

According to Greg Maguire he informed John Anderson that I was no longer on the Board.

Greg Maguire then told me, 'Mate, I had to remove you'. My 'removal' was part of the political preconditions that were being applied to the funding submission.³⁴

8.28 Mr Maguire stated in evidence that, 'There was no suggestion that the Centre would not be funded under the Regional Partnerships Program if Mr Windsor was associated with it'.³⁵ With regard to Mr Windsor's 'removal' from the Working Group, Mr Maguire informed the Committee that:

One of these specific matters is that Mr Windsor had resigned from the board of the Australian Equine and Livestock Centre because the Deputy Prime Minister had made it a condition of funding for the centre that he do so. This is untrue, as I personally was responsible for asking Mr Windsor to resign from the board. I discussed the matter with Mr Windsor, and he agreed to step down from the board.

I had a similar discussion with the other politician on the board, the Independent state member for Tamworth, Mr Peter Draper. He also agreed to stand down from the Board. In neither case did I tell them, nor was it a requirement, that they must not be associated with the centre in order for it to receive funding at either the federal or state level. My reason was that it seemed to me to be better not to have Independent members of state or federal parliament on the board when we were seeking funding from a state Labor government on the one hand and a Liberal-National coalition on the other.

Accordingly, I did not remove Mr Windsor from the board, in circumstances alleged by him or at all. In fact, I did not have the power to remove him from the board.³⁶

Conclusion

8.29 There is no uncontested evidence that Minister Anderson, or anyone else in a position to do so, had made it a condition of the grant that Mr Windsor be removed from the process less he take credit for the grant. However, there was a perception among at least some of the people involved in seeking an RP grant for the AELC that

34 Mr Windsor MP, *Submission 15*, p. 4.

35 Mr Maguire, *Committee Hansard*, 10 March 2005, p. 2.

36 Mr Maguire, *Committee Hansard*, 10 March, pp 2-3.

Mr Windsor's involvement would not be helpful. This perception was no doubt encouraged by remarks such as that attributed to Mr Anderson at the meeting of 22 February 2002 that, 'Political grandstanding was not the way to go'. It is possible that this perception may have been Mr Maguire's motive for 'removing' Mr Windsor from the second working party.

The inducement allegations

8.30 In an article published in a Sunday newspaper on 19 September 2004 Mr Windsor was reported as saying that he had been offered an inducement not to stand for the seat of New England by an intermediary acting on behalf of two political players.³⁷ The allegation was subsequently reported widely in the media during the federal election campaign.

8.31 Following the initial media stories, the Opposition referred the allegation to the Australian Electoral Commission (AEC). On 21 September 2004, the AEC referred the matter to the Australian Federal Police (AFP) for investigation.

The meeting of 19 May 2004

8.32 Mr Windsor did not identify the 'intermediary' or the 'two political players' as Mr Maguire, Minister Anderson and Senator Sandy Macdonald respectively until the new Parliament met in November 2004.

8.33 On 27 November, Mr Windsor stated in the House of Representatives that:

...Mr Maguire indicated that he had spent four to five hours the night before [18 May 2004] in the company of the Deputy Prime Minister, John Anderson, and National Party senator Sandy Macdonald and a black-haired woman whose name he did not recall...Mr Anderson asked Mr Maguire to meet with me and give me some messages...Mr Anderson said that if I tried to get any credit for the funding of the Australian Equine and Livestock Centre the funding would not take place; Mr Anderson was also concerned about my continued association with the Australian Equine and Livestock Centre, given my political position; Mr Anderson and Senator Macdonald asked Mr Maguire what it would take to get me to not stand for re-election and indicated that there could be another career for me outside politics, such as a diplomatic post or a trade appointment, if I did not stand for the seat of New England. Senator Macdonald said, 'Offer him whatever it takes, we can deliver.' One of them also said, 'The government makes about 500 political appointments, it can be done.'³⁸

8.34 Mr Anderson responded to those allegations later that day in the House of Representatives, as follows:

37 Mr Tony Windsor MP, *Submission 15*, p. 5.

38 Mr Tony Windsor MP, *House of Representatives Hansard*, 17 November 2004, p.152.

...I completely repudiate the member for New England's allegations of improper inducements were offered indirectly by Senator Macdonald and me earlier this year. I would make the first point that there was no meeting on 18 May; I was in Queensland, in Bundaberg, on the evening of the 18th. I have on three or four occasions met Mr Maguire. In total I doubt that I have spent four or five hours with him. But I want to make it very plain that, at those meetings, neither I nor Senator Macdonald gave him any indication or authorisation to suggest to the member for New England...any indication of any nature whatsoever that he might be offered some inducement in return for not running for the seat of New England. I cannot know what representations might have been made at the meeting that apparently took place on 19 May, but I can know that he had no authority whatsoever – implied, nuanced or whatever – from me or from Senator Macdonald to stand aside in return for some inducement.³⁹

8.35 Senator Sandy Macdonald responded to the allegations in a letter to the Committee, in which he stated:

I repudiate any claims of my involvement in an alleged 'bribery' inducement for Mr Tony Windsor MP to vacate the seat of New England. I have not and would not offer Mr Windsor any inducement to step down from his seat.⁴⁰

8.36 Mr Maguire also denied the allegations both in public statements and when he appeared before this Committee.⁴¹

8.37 The AFP released a statement to the media on 22 November 2004 in which it stated that it had finalised its investigation and had sent evidentiary material to the Commonwealth Director of Public Prosecutions (CDPP) for advice in relation to whether a prima facie case could be substantiated in relation to the allegation. The AFP reported that the CDPP had concluded as follows:

...none of the versions of the conversations related by any of the witnesses can amount to an 'offer to give or confer' a benefit. Further there is no evidence in the material of Mr Maguire having conspired with any other person to make an offer to Mr Windsor.⁴²

8.38 The AFP stated that it had assessed the information provided by the CDPP and had finalised its investigations as a result of that assessment.⁴³

8.39 Mr Windsor made a further statement in the House of Representatives on 29 November 2004 in which he alleged that Mr Maguire had made a number of abusive

39 Mr Anderson MP, *House of Representatives Hansard*, 17 November 2004, p. 158.

40 Senator Macdonald, correspondence, 7 March 2005, p. 1.

41 See, for example, Mr Maguire, Press release dated 23 November 2004 and *Committee Hansard*, 10 March 2005, p. 16.

42 Australian Federal Police Media Statement, 22 November 2004.

43 Australian Federal Police Media Statement, 22 November 2004.

phone calls on 20 September, well before Mr Windsor mentioned his name in Parliament, thus showing that Mr Maguire had recognised himself as the intermediary. Mr Windsor said that a few days after 20 September Mr Maguire had told him that Mr Anderson had rung him and asked that he tell Mr Windsor '...to pull back...this is bigger than all of us'.⁴⁴ In that speech Mr Windsor supported the establishment of a parliamentary committee inquiry at which, he said, 'the people who were witnesses to the various events...are quite willing to present their evidence and to be cross-examined'.⁴⁵ The Committee learnt during its inquiry that those witnesses included Mr Windsor's campaign manager, Mr Stephen Hall, and his campaign secretary, Ms Helen Tickle.

8.40 Mr Windsor's allegations were considered in depth during the Committee's inquiry. Mr Windsor, Mr Hall, Ms Tickle and Mr Maguire made submissions and gave oral evidence. Also, as mentioned earlier, Senator Sandy Macdonald wrote to the Committee.

8.41 With regard to the meeting on 19 May 2004, it is clear from the evidence that Mr Maguire used words to the effect that Mr Windsor could be offered a government position if he chose not to stand for re-election, or if he chose to join a party of the coalition government.⁴⁶ It is not clear, however, that the statement was made at the behest of Mr Anderson and Senator Macdonald.

8.42 As reported earlier, Mr Windsor stated in the House of Representatives and in evidence⁴⁷ that Mr Maguire had stated (or indicated) that he was delivering a message from Mr Anderson and Senator Macdonald. Mr Maguire denied that in his evidence to the Committee. Neither of the other witnesses to the conversation, Mr Hall nor Ms Tickle, was able to state that they heard Mr Maguire link Mr Anderson's or Senator Macdonald's names directly to the alleged inducement. The following exchange between Ms Tickle and Senator Murray is relevant:

Senator Murray – So I am left with this summary. You are saying to the committee that the statement of yours that at this point in the conversation Greg then relayed, 'They would offer you anything – a diplomatic posting or anything' to stand aside is an accurate recollection –

Ms Tickle – I recall him saying that.

Senator Murray – But you do not recall him saying that Mr Anderson and Senator Macdonald had asked him to say that.

Ms Tickle – I do not recall that.⁴⁸

44 Mr Windsor MP, *House of Representatives Hansard*, 29 November 2004, p. 85.

45 Mr Windsor MP, *House of Representatives Hansard*, 29 November 2004, p. 85.

46 See, for example, Mr Maguire, *Submission 43*, pp 3-4.

47 See, for example, Mr Windsor MP, *Committee Hansard*, 3 February 2005, p. 32.

48 *Committee Hansard*, 3 February 2005, p. 72.

8.43 Mr Hall agreed in response to a question from the Committee that his submission, as it related to Mr Maguire's words at the meeting of 19 May, did not include the words that Mr Anderson and Senator Macdonald 'told me to tell you that'.⁴⁹ However, in response to another question, Mr Hall seemed to resile from that statement:

Senator Brown – In the next paragraph, you say:

Tony Windsor said to Greg Maguire...that John Anderson and Sandy Macdonald and the National Party should also know better than to have the proposition put to him.

I gather that it was very clear at the meeting that John Anderson and Sandy Macdonald did put this proposition about a diplomatic posting or otherwise another job through Mr Maguire to Mr Windsor?

Mr Hall – That is what I recall Greg Maguire saying.

Senator Brown – Did you have any doubt about that – that this was coming from Mr Anderson?

Mr Hall – No. After I left the meeting I did believe that Greg Maguire's comments indicated to me that they had been delivered on behalf of a third party. I do believe that the third party was John Anderson and Sandy Macdonald.

Senator Barnett – I missed the answer. Did you say, 'After I left the meeting'?

Mr Hall – Yes, I believed that that was the case.⁵⁰

Meetings and telephone calls after 19 May 2004

8.44 As reported earlier, Mr Windsor stated in the House of Representatives on 29 November 2004 that Mr Maguire had made a number of abusive telephone calls on 20 September, at the time that Mr Windsor was making his allegations in the media. The Committee was told by Mr Windsor during the inquiry that Mr Maguire had made those telephone calls to Mr Hall, not to Mr Windsor.

8.45 In his submission dated 28 January 2005 Mr Hall provided evidence regarding the content of those and other telephone calls, which, he stated, occurred on 20, 22, 27 September and 7 October 2004.⁵¹ Mr Hall reported the conversations in some detail, and quoted verbatim some passages of dialogue between himself and Mr Maguire. Mr Hall informed the Committee that he had not recorded the calls, nor had he taken contemporaneous notes, but that he had made the notes before being interviewed by the AFP. Mr Hall was interviewed by the AFP on 1 and 7 October 2004.⁵² Mr Hall

49 Mr Hall, *Committee Hansard*, 3 February 2005, p. 91.

50 *Committee Hansard*, 3 February 2005, pp 98-99.

51 Mr Hall, *Submission 13*, pp 3-6.

52 Mr Hall, *Committee Hansard*, pp 82, 95.

also gave evidence about meetings he had with Mr Maguire on 21 and 23 September. Mr Windsor also apparently attended the meeting on 23 September.⁵³

8.46 According to Mr Hall's evidence the main matters discussed in these telephone conversations and meetings were:

- (a) Mr Maguire had stated on 20 September that Mr Windsor was going to tell the press about what was described in Mr Hall's evidence as 'Anderson's offer', that it 'would be the end of him' (Maguire) and that 'Anderson will probably pull the funding';⁵⁴
- (b) Mr Maguire had said in a meeting with Mr Hall on 21 September that he had spoken to Mr Anderson after the announcement of the funding for the equine centre earlier that day and that Mr Anderson had asked Mr Maguire to get a message to Mr Windsor 'to back off, as this was bigger than both of them';⁵⁵
- (c) Mr Hall alleged that Mr Maguire had said at the same meeting that he would not be the person to bring down the Deputy Prime Minister of Australia and that he would lie to protect the Deputy Prime Minister, himself and the funding of the equine centre;⁵⁶
- (d) Mr Hall stated that at the meeting on 23 September Mr Maguire had advised Mr Windsor and Mr Hall that Mr Anderson had asked him to tell Mr Windsor to back off as the matter was bigger than both of them;⁵⁷
- (e) Mr Hall also stated that at that meeting Mr Maguire had told him and Mr Windsor that if he were interviewed by the AFP he would lie to protect the Deputy Prime Minister as he would not bring him down and also he needed to protect the funding for the equine centre.⁵⁸
- (f) Mr Hall alleged that in the telephone conversation on 7 October 2004 Mr Maguire had told him that the AFP had interviewed him on 2 October and that he had informed them that it was all a misunderstanding, that the independents and Tony Windsor can't deliver and that Tony Windsor should look for an overseas appointment. Mr Hall further alleged that he had asked Hall to corroborate his story as that was the only way out of it and the easy way for Tony Windsor and John Anderson, and it would protect the funding of the equine centre.

53 Mr Hall, *Submission 13*, pp 3-6.

54 Mr Hall, *Submission 13*, p. 3.

55 Mr Hall, *Submission 13*, p. 4.

56 Mr Hall, *Submission 13*, p. 4.

57 Mr Hall, *Submission 13*, p. 5.

58 Mr Hall, *Submission 13*, p. 5.

Mr Hall alleged that Mr Maguire had stated that if Mr Hall did not support him 'he would finish him'.⁵⁹

8.47 Mr Maguire agreed that he had rung Mr Hall on a number of occasions on or about the dates indicated by Mr Hall.⁶⁰ However, he disputed Mr Hall's version of the content of those calls, and informed the Committee that:

My conversations with Mr Hall were purely along the lines that this was a total destructive approach by Mr Windsor...that they are jeopardising the chance of us getting funding – the publicity would jeopardise everything and it was just not sensible to do that.⁶¹

8.48 Mr Maguire also denied that he had threatened Mr Hall.⁶² Mr Hall informed the Committee that when he was interviewed by Federal Police agents on 7 October, a few hours after his conversation with Mr Maguire, he had not reported the alleged threat.⁶³ In response to questions from the Committee, both Mr Maguire and Mr Hall stated that they were unaware that any such threat would be unlawful.⁶⁴

8.49 The telephone conversations between Mr Maguire and Mr Hall were not witnessed by another party, nor was a recording made, although, as reported above, Mr Hall informed the Committee that he had made notes of the conversations for his interviews with the AFP, which occurred on 1 and 7 October.

8.50 One statement that was allegedly made by Mr Maguire for which there appears to be corroborating evidence was apparently made at the meeting between him, Mr Windsor and Mr Hall on 23 September 2004 at the Powerhouse Hotel in Tamworth. Mr Hall told the Committee that:

Greg Maguire also advised Tony Windsor and myself that if he was interviewed by the Federal Police, that he would lie to protect the Deputy Prime Minister as he would not bring him down and also he needed to protect the funding for the equine centre.⁶⁵

8.51 Mr Windsor was asked about that statement during the hearings and stated that Mr Hall's recollection was accurate.⁶⁶

59 Mr Hall, *Submission 13*, p. 6.

60 Mr Maguire, *Committee Hansard*, 10 March 2005, p. 7.

61 Mr Maguire, *Committee Hansard*, 10 March 2005, p. 8.

62 Mr Maguire, *Committee Hansard*, 10 March 2005, p. 24.

63 Mr Hall, *Committee Hansard*, 3 February 2005, p. 95.

64 Mr Hall, *Committee Hansard*, 3 February 2005, p. 94; Mr Maguire, *Committee Hansard*, 10 March 2005, p. 25.

65 Mr Hall, *Submission 13*, p. 5.

66 Mr Windsor MP, *Committee Hansard*, 3 February 2005, p. 115.

8.52 Mr Maguire not only denied the allegation, but also alleged collusion between Mr Windsor and Mr Hall. The following exchange is relevant:

Senator Carr –...We have had evidence from one witness, corroborated by another witness, that on 21 September, 23 September and 7 October you said that you were prepared to lie to the Federal Police. You are categorically denying that matter?

Mr Maguire – I am. I would like to comment on that. I am being accused of lying by the chairman of Mr Windsor's campaign and by the secretariat of his campaign...Mr Windsor has dug a hole and the only way to get out of it and save Mr Windsor's skin is to accuse or bury me.⁶⁷

8.53 Mr Maguire stated in his submission that he rejected Mr Windsor's and Mr Hall's 'recent expanded recollections about my alleged willingness to lie'.⁶⁸ In his opening statement to the Committee Mr Maguire said:

Mr Windsor's latest attack on me in his evidence to this inquiry, aided and abetted by his campaign manager, Mr Hall, now adds insult to injury, by stating that the bribery allegations against me and the Deputy Prime Minister (now discredited by the Australian Federal Police and the Commonwealth Director of Prosecutions) are matters about which I was supposedly prepared to lie. I deny that allegation. This new allegation was never raised by Mr Windsor in May 2004, nor was it ever put to me by the Australian Federal Police in November 2004, nor was it raised by Mr Windsor in the House of Representatives when he dealt with his claims on a number of occasions in November 2004. Rather, it comes as some sensationalised further revelation when he gives evidence to this Committee in February 2005.⁶⁹

Australian Federal Police investigation

8.54 If it is true that Mr Maguire told two persons that he intended to lie to the police, the investigation conducted by the AFP becomes an issue. Mr Hall and Mr Windsor stated in evidence that Mr Maguire made this statement before any of them was interviewed by the police. It is not known exactly what Mr Windsor said during his interview with the police, but Mr Hall stated in evidence that he was not asked questions about anything that may have occurred after the meeting on 19 May 2004. He told the Committee that the police had asked whether he had discussed the meeting with anyone else. When Mr Hall informed them that he had discussed the meeting with Mr Windsor, Ms Tickle and Mr Maguire, 'that was the end of the discussion'.⁷⁰

8.55 The Committee understands that the AFP did not interview either Mr Anderson or Senator Macdonald. It does not know why, but it is possible that the

67 Mr Maguire, *Committee Hansard*, 10 March 2005, pp 34-35.

68 Mr Maguire, *Submission 43*, p. 4.

69 Mr Maguire, *Committee Hansard*, 10 March 2005, p. 4.

70 Mr Hall, *Committee Hansard*, 3 February 2005, p. 84.

police had satisfied themselves that, in the words of the AFP press release, '... none of the versions of the conversations related by any of the witnesses can amount to an "offer to give or confer" a benefit'⁷¹ and did not investigate any further. There is no evidence to suggest that the police were made aware at any stage of the further allegations made by Mr Windsor and Mr Hall at the Committee's February hearings.

8.56 Mr Windsor was asked why he had stated in the House of Representatives that Mr Anderson and Senator Macdonald may have known the result of the AFP's investigation before it was announced. Mr Windsor was not able to bring forward any evidence to support his contention, but continued to assert that it was possible.⁷²

Credibility of the evidence

8.57 Given the contradictory accounts given in evidence the credibility of the evidence became an issue.

8.58 One matter in particular assumed some significance. In his opening statement to the Committee Mr Maguire stated that his companies had made financial contributions to Mr Windsor's election campaigns over the years.⁷³ Other witnesses acknowledged that Mr Maguire had assisted Mr Windsor with fund raising and with his television campaigns, but that they were not aware of any direct financial contributions.⁷⁴ When Mr Maguire was asked about his statement he responded that he had made financial contributions, but that he was not aware of which of his 37 companies had made the contributions. He agreed to provide the names of his companies to the Committee so that his statement could be checked against the official records of financial contributions made to political parties.⁷⁵ Despite follow-up letters sent by the Committee on 5 April, 12 August and 21 September 2005, Mr Maguire did not provide the information.

8.59 Another matter pertaining to the credibility of Mr Maguire's evidence was his inability to recall when he became aware that Mr Windsor intended to inform the media of Mr Windsor's version of the meeting of 19 May 2004.⁷⁶ This lapse of memory is significant in as much as Mr Windsor claimed that Mr Maguire's self identification as the 'intermediary' demonstrates the truth of the Windsor recollection of the discussion at that meeting.

8.60 There were other issues identified during the hearing that were not explained to the complete satisfaction of the Committee and which go to the credibility of some

71 Australian Federal Police Media Statement, 22 November 2004.

72 Mr Windsor MP, *Committee Hansard*, 3 February 2005, pp 56-57.

73 Mr Maguire, *Committee Hansard*, 10 March 2005, p. 4.

74 See, for example, Mr Hall, *Committee Hansard*, 3 February 2005, p. 90.

75 Mr Maguire, *Committee Hansard*, 10 March 2005, p. 49.

76 *Committee Hansard*, 10 March 2005, pp 45-49.

of the evidence given by Mr Windsor, Mr Hall and Ms Tickle. The issues include the categorical statements of those witnesses that the meeting between Mr Anderson, Senator Macdonald and Mr Maguire had occurred on 18 May, when it in fact occurred some days earlier. Another issue is that Mr Windsor did not mention Mr Maguire's alleged intention to lie to the Federal Police publicly until the Committee's hearings in February 2005, despite its relevance to Mr Windsor's case for an inquiry. A further question that could be raised in that regard is why, given that Mr Maguire is alleged to have made that statement a month before the police investigation, neither Mr Windsor nor Mr Hall seem to have reported it to the police. Finally, why did not Mr Hall report the alleged threat made by Mr Maguire to the police when the police interviewed him later the same day?

Conclusions

8.61 The alleged inducement made to Mr Windsor is relevant to the inquiry because it arose in the context of an allegation that a precondition for the grant to the Australian Livestock and Equine Centre was that Mr Windsor was not associated with the submission and that he did not receive credit for the grant.

8.62 The evidence taken by the Committee is disputed among the witnesses and is confused in a number of respects. For example, Mr Windsor and his associates recall that in the relevant meeting on 19 May 2004 Mr Maguire said (or 'indicated') that he had come from a meeting of four or five hours duration the night before with Mr Anderson and Senator Macdonald. That meeting apparently took place on the night of 13 May and lasted for 90 minutes or so. Mr Windsor has stated that at the meeting on 19 May Mr Maguire had represented himself as bearing messages from Mr Anderson. Mr Maguire has denied that claim and neither Mr Hall nor Ms Tickle heard Mr Maguire say that he was carrying messages from Mr Anderson or Senator Macdonald.

8.63 On the other hand, there was evidence given the Committee that Mr Maguire had made statements to Mr Windsor and to Mr Hall to the effect that he would lie to the Federal Police so as not bring the Deputy Prime Minister down and to protect the funding of the equine centre. Mr Maguire denied making the statements, queried why the allegation had not been made until the time of the hearings and alleged collusion between Mr Hall and Mr Windsor. However, both Mr Windsor and Mr Hall agreed on this point.

8.64 Both Minister Anderson and Senator Macdonald were invited to appear before the Committee to respond to the allegations made against them. However, Minister Anderson did not respond to the Committee's invitation and Senator Macdonald declined in writing. Mr Anderson and Senator Macdonald have both denied that Mr Maguire was authorised or given any indication that he could make an offer of an inducement to Mr Windsor, although neither could know what was said at the meeting on 19 May 2004. Mr Anderson made his denial in the House. Senator Macdonald made his denial in a letter to the Committee.

8.65 Without compelling and incontrovertible evidence, a committee of the Senate cannot make an adverse finding against a senator who has denied the allegations made against him. In the case of the alleged inducement, the evidence is not sufficient for this Committee to depart from that principle.

The National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia

8.66 On 24 June 2004 the Parliamentary Secretary to the Minister for Transport and Regional Services (Mrs Kelly) approved a Regional Partnerships grant of \$4.950 million for the University of New England (UNE) to establish a National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia (SiMERR). The grant was processed under the program's SONA procedures.⁷⁷

8.67 According to a background paper published by the UNE's Faculty of Education, Health and Professional Studies, 'The primary aim of the SiMERR National Centre is to create a national focus to improve the quality of rural and regional students' learning by encouraging and supporting professional development of pre-service and in-service primary and secondary teachers, in the areas of science, ICT and mathematics'.⁷⁸

8.68 In the following paragraphs, the Committee reports on the administration of the grant and on the allegations made by Mr Windsor that political preconditions were attached to the grant.

Time taken to process the grant

8.69 The application for a RP grant for SiMERR was processed in a remarkably short time compared with most other grants. Data submitted by DOTARS show that the application for the grant was lodged with DOTARS on 15 June 2004, and the grant was approved nine days later, on 24 June 2004.

8.70 Ms Riggs informed the Committee that once the application had been lodged the Minister had asked the department to expedite its advice.⁷⁹ The Committee asked Ms Riggs the reason for the haste, and was told that:

...my understanding is that the university was making representations...that it wished formally to be able to get the centre off the ground as early as

77 DOTARS, Revised RPP Tables, received 11 May 2005, p. 8.

78 The University of New England, Faculty of Education, Health and Professional Studies, The National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia (SiMERR): background, Executive Summary, p. 1.

79 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 59.

possible in the 2004-05 financial year, and that was rapidly approaching at the time they lodged their application.⁸⁰

8.71 Professor Pegg, one of the main proponents of the project stated that he was keen to establish the centre, and informed the Committee that originally he had hoped that it could begin operations on 1 January 2004.⁸¹ Professor Pegg had told Mr Anderson and Mr McGauran in 2003 that the centre could begin operation on that date.⁸²

8.72 A comment made by Professor Pegg regarding a meeting on 6 September 2003 with Mr Anderson and Mr McGauran demonstrates that the Minister took a close personal interest in the project:

Mr Anderson was particularly receptive as he was receiving a growing list of concerns from people from throughout rural Australia and was experiencing situations at first hand through his own children.⁸³

8.73 Mr Anderson continued to take a close interest in the project for some time because, in addition to the meeting in September 2003 reported above, he met informally with the proponents on three occasions in May 2004.⁸⁴ There was a final, formal meeting on 26 May, after which the application was expeditiously progressed with DOTARS.

SONA procedures

8.74 The application was processed by DOTARS under the SONA procedures because, according to the department, 'This was a project that went way beyond the area of one area consultative committee. ... It was genuinely a national project'.⁸⁵

8.75 As discussed earlier in this report, DOTARS explained the SONA provisions of the RPP as follows:

...SONA is a set of procedures that still requires that the project meets the broad terms of the guidelines about the assessment criteria in terms of outcomes, partnership support, and the project and applicant viability.⁸⁶

8.76 The question as to whether the SiMERR project did in fact meet the 'broad terms of the guidelines' was pursued with the proponents. The following exchange is relevant:

80 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 60.

81 Professor Pegg, *Committee Hansard*, 28 June 2005, p. 17.

82 Professor Pegg, *Committee Hansard*, 28 June 2005, p. 3.

83 Professor Pegg, *Committee Hansard*, 28 June 2005, p. 3.

84 Professor Pegg, answer to question on notice, 25 July 2005, p. 1.

85 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 59.

86 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 91.

Prof. Minichiello - ...We put in an application. We believed it was an appropriate application. We believed Regional Partnerships was an appropriate avenue...

Senator O'Brien - ...I wanted to know what you had done in terms of looking at the actual guidelines to see if they fitted, because they are published on the web site. They have been the subject of our consideration. You were talking to the Deputy Prime Minister about the program, and your evidence was just then that you were sure it fitted the program.

Prof. Minichiello – In my mind I was sure.

Senator O'Brien – But you had never looked at the guidelines.

Prof. Minichiello – I had looked at the guidelines. You cannot help but look at the guidelines, because they are part of the application.⁸⁷

Processing by the department

8.77 Unlike most proposals for RP funding the application for the SiMERR grant was initially lodged with and processed directly in DOTARS national office, rather than first being assessed by an ACC.⁸⁸ The process of applying for the grant began in May 2004 at a meeting attended by Mr Anderson, the proponents, departmental officers and a senior adviser from the office of the Minister for Education, Science and Technology. Professor Pegg told the Committee that:

After this meeting the proposal that had been the basis of talks for the past few years was reconfigured to meet with the DOTARS application process. This work took over a month to complete and went through numerous modifications.⁸⁹

8.78 The application, having in effect been produced in collaboration between the national office of DOTARS and the proponents, was sent by DOTARS to NENWACC for advice on 21 June 2004.⁹⁰ The then Executive Officer of NENWACC, Ms Rebel Thomson, informed the Committee that:

The application came from the department. As part of its processes, if an application is submitted bypassing the ACC there is a mechanism within the system that automatically sends it to the ACC for comment. So I would presume that is how it came back to us.⁹¹

8.79 Ms Riggs stated that, 'We followed our usual processes. As soon as the application was lodged we provided it to the ACC. Then in light of the request that we

87 Senator O'Brien and Professor Minichiello, *Committee Hansard*, 28 June 2005, pp 10-11.

88 Professor Pegg, *Committee Hansard*, 28 June 2005, p. 16.

89 Professor Pegg, *Committee Hansard*, 28 June 2005, p. 3.

90 Ms Thomson, *Committee Hansard*, 29 June 2005, p. 75.

91 Ms Thomson, *Committee Hansard*, 29 June 2005, p. 75.

expedite it...we asked the ACC to expedite its consultation'.⁹² As reported earlier, the application was lodged on 15 June 2004. NENWACC received it on 21 June and was given only 24 hours to respond.⁹³ Mr Kevin Humphries, Chairman of NENWACC, told the Committee that:

We were asked to make comment on it. My response to that request was, 'We are not going to assess it because it is physically impossible to do so'. Rebel [Ms Thomson] sent an email around the board asking them to make comment. We did and I added further comment. It was a very interesting project, because it really should have been referred to Regional Partnerships at a much earlier stage and was not.⁹⁴

8.80 The Committee shares Mr Humphries concerns about the failure to adhere to proper process. Mr Humphries told the Committee:

Again, it is about the process not being followed properly and people not using the proper processes through which government funding may be procured. I think a lot of what you are potentially dealing with is the back end of what goes on with those projects, when in fact some of the problems that we have had to unravel have been caused at the front end, by people not using the proper process.⁹⁵

Regional Partnerships - an appropriate program?

8.81 Because SiMERR is a facility within a university and is concerned with teaching and research, it seems logical that if it were to receive Commonwealth funding, that funding should be allocated from moneys appropriated for education. That issue was raised with the proponents and with DOTARS.

8.82 Professor Pegg informed the Committee that in mid-2003 he met with a senior adviser from the office of the Minister for Education, Science and Technology who stated that the idea was critical to rural and regional areas but that there was no current Department of Education, Science and Training (DEST) program from which the project could be funded.⁹⁶ The professor then spoke with Senator Macdonald and Mr Anderson about alternative sources of funds, which led to an application being made to the Regional Partnerships Program. Minister Anderson called for the establishment of SiMERR at the national conference of the National Party that was held in October 2003.⁹⁷

92 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 59.

93 Mr Humphries, *Committee Hansard*, 29 June 2005, p. 76.

94 Mr Humphries, *Committee Hansard*, 29 June 2005, p. 70.

95 Mr Humphries, *Committee Hansard*, 29 June 2005, pp 70-71.

96 Professor Pegg, *Committee Hansard*, 28 June 2005, p. 3

97 The Nationals, 'Anderson calls for Better Maths and Science Training', media release, 12 October 2003.

8.83 Ms Riggs was asked why the project had been funded through the RP program rather than from an education program, and responded as follows:

My understanding is that there was some consideration between offices. Issues to do with the construct of programs within the Department of Education, Science and Training made this a less good fit for those programs than perhaps it would be for Regional Partnerships on this occasion.⁹⁸

8.84 The Committee considers this explanation inadequate.

Conclusion

8.85 The Committee cannot know precisely the reasons for the haste with which this project was processed or why, possibly as a result of haste, the usual processes for the administration of RP grants was not rigorously followed. Nor can the Committee know with certainty why Commonwealth Government funds were granted from the RP program rather than from an education program. It is mindful, however, that RP grants are made at the discretion of the Minister, who apparently took a personal interest, and that this grant was made to the UNE in a seat that the National Party wanted to regain from an Independent member.

Mr Windsor's allegations

The advertisements

8.86 Mr Windsor's concerns about the grant arise from advertisements printed in the local newspapers on 23 and 24 July 2004. A double page spread in the papers included a half-page advertisement paid for by the UNE, which advertised the courses available from SiMERR, a half page advertisement for the National's candidate for the seat of New England, and two half pages of 'advertorial' linking SiMERR and the Nationals. Evidence to the Committee indicated that Mr Jim Booth from Senator Macdonald's office wrote the 'advertorial' and The Nationals paid to place it.⁹⁹ The 'advertorial' included extensive quotes by Professors Pegg and Minichiello taken from another publication, while the advertisement for The Nationals candidate included effusive quotes by the professors. These quotes were taken from the same publication in which they had thanked the National Party for its role in obtaining the grant.¹⁰⁰

Comment on the advertisements

8.87 Mr Windsor's comment regarding the advertisements was as follows:

Having been – and I still am – a member of the University of New England Council I was quite distressed about that, as were some others. Some very

98 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 60.

99 *Committee Hansard*, 28 June 2005, pp 18-22.

100 *The Northern Daily Leader*, 24 July 2005, pp 32-33.

well-meaning staff of the university had been pressured to give favourable comment on this particular grant and had been advised not to mention the local member, even though I had meetings with the proponents during what was called a 'Vision New England' summit that I organised...But there was definitely pressure applied to those staff. The university council carried out an investigation, and there is some commentary in the submission in relation to that, and found that there had been a breach of protocol and that university staff were not to show any favouritism in the political arena. It was an example where pressure was applied to individuals for a political reward for the granting of a Regional Partnerships grant.¹⁰¹

8.88 The 'commentary' in Mr Windsor's submission was as follows:

The funding of \$4.95 million from the Regional Partnerships Program to the National Centre for Maths and Science at the University of New England is another example which was investigated by the University of New England Council and found to be at fault in the politicisation of the funding for the University by the National Party.¹⁰²

8.89 Professors Pegg and Minichiello denied the allegation that the funding for the centre was ever tied to or dependent upon providing support for The Nationals.¹⁰³ Professor Minichiello stated that, 'At no stage was there any discussion that funding was dependent on endorsing a political candidate or that the project would be funded on any criteria other than its significance, aims innovation and merit'.¹⁰⁴ He stated that there was no implication or hint of such an arrangement.¹⁰⁵

8.90 Senator Sandy Macdonald and Mr Trevor Khan, the National Party candidate for New England at the 2004 election, also denied the allegations.¹⁰⁶ Senator Macdonald informed the Committee that:

At no time were any conditions placed on the funding for the project that staff at the University of New England must provide favourable comment of the Australian Government. At no time were staff from the University 'bullied' into advertising the centre. These allegations are completely without foundation.¹⁰⁷

8.91 During the inquiry Mr Windsor was asked directly whether the university council had found that it was a condition of the grant that political comment be made. He responded that:

101 Mr Windsor MP, *Committee Hansard*, 3 February 2005, p.11.

102 Mr Windsor MP, *Submission 15*, p.3.

103 Professors Pegg and Minichiello, *Submission 52*, p. 1.

104 Professor Minichiello, *Committee Hansard*, 28 June 2005, pp 4-5.

105 Professor Minichiello, *Committee Hansard*, 28 June 2005, p. 29.

106 Mr Khan, *Submission 42*, p.6.

107 Senator Macdonald, correspondence, 7 March 2005, p. 3.

Essentially, I am asking the committee to look at that process. I am not pretending to know everything that happened and who met whom, but it seems to me that in terms of granting the grant there were some political conditions applied to that grant and pressures applied to have favourable commentary made by the university in an advertorial that was promoting the National Party.¹⁰⁸

8.92 Regarding the university council meeting to which Mr Windsor referred, Professor Minichiello commented that Mr Windsor had made a statement in the media (an allegation of 'cash for comment') and had then put the item on the agenda for council. Professor Minichiello stated as follows:

We [Professors Minichiello and Pegg] wrote jointly to the chancellor, John Cassidy, to put forward our interpretation of the events to provide social justice – the right of reply. The chancellor never responded to our letter. The council met in Sydney. A discussion took place... There was no conflict of interest declared. The federal member was allowed to lead the discussion. Richard Torbay, the state Independent member, also participated in the discussion. The rationale they provided was that they were protecting the interests of the university. From my perspective, if, as council members, they were protecting the interests of the university they would have first raised the issue at council and then gone public. But they went public and then went to council.¹⁰⁹

Conclusion

8.93 The National Party obviously sought to obtain political advantage from the grant by way of advertisements that were carried in the local newspapers at the time of the centre's official opening. The university did not act appropriately in having its SiMERR advertisement appear with a party political advertisement, and the professors were probably unwise not to have objected to having their names linked to the party political advertisement.

8.94 However, there is no evidence to support Mr Windsor's allegation about 'cash for comment'. Those involved in securing the SiMERR grant who gave evidence have denied the allegation that the grant was made on the condition that the proponents would publicly support The Nationals. Mr Windsor himself stated that he did not know who met whom and who said what to whom; he merely asked that the Committee investigate the allegation.

Grace Munro Aged Care Centre

8.95 This facility situated in the NSW town of Bundarra in the electoral division of New England received a grant of \$100,000 from the Regional Solutions program, a precursor of the RPP.

108 Mr Windsor MP, *Committee Hansard*, 3 February 2005, p.13.

109 *Committee Hansard*, 28 June 2005, p. 5 (in camera, excerpt agreed for citation).

Mr Windsor's allegations

8.96 Mr Windsor has alleged that Senator Sandy Macdonald deliberately attempted to coerce and threaten a Council into removing the right of the duly elected member to communicate with his constituents.¹¹⁰ Specifically, he alleged that Senator Macdonald had prevailed on the Council not to show Mr Windsor's name on a commemorative plaque, and had attempted to prevent his joining the official party at the opening ceremony on 4 December 2004. Mr Windsor argues that these actions were 'a quite deliberate attempt to remove the member from carrying out his duly elected duties and to pressure others not to include him'.¹¹¹

The official opening

8.97 When the construction of the Grace Munro Centre was nearing completion the Uralla Shire Council invited the Commonwealth Government Ministers for Aged Care and Transport and Regional Services to the official opening. The ministers were unable to attend, and nominated Senator Sandy Macdonald to represent them.

8.98 The Uralla Council sent a copy of the draft wording for the plaque to commemorate the official opening of the Grace Munro Centre to Senator Macdonald on 10 November 2004. The draft included Mr Windsor's name, which Senator Macdonald's office requested be removed. Senator Macdonald informed the Committee that he had been asked to open the centre on behalf of the Australian Government, and that he understood that it was appropriate protocol that only his name should be placed on the opening plaque.¹¹²

8.99 On 23 November the Council sent a copy of the draft program for the opening to Senator Macdonald. The senator responded by telephone on 25 November, advising that he would not share a podium with Mr Windsor. According to the General Manager of the Uralla Shire, Mr Robert Fulcher, Senator Macdonald stated that he was offended that Mr Windsor had chosen to make allegations concerning him under parliamentary privilege and that Mr Windsor could be a guest at the function, but could not be on the official party nor speak.¹¹³

8.100 Following discussions with the senator, with Mr Windsor and with the Independent state Member of Parliament, the Mayor of the Uralla Shire invited Mr Windsor to join the official party and to speak at the opening.¹¹⁴ Senator Macdonald

110 Mr Windsor MP, *Submission 15*, Attachment C, p. 1.

111 Mr Windsor MP, *Committee Hansard*, 3 February 2005, p. 53.

112 Senator Macdonald, correspondence, 7 March 2005.

113 Mr Robert Fulcher, *Statutory Declaration dated 15 December 2004*, p. 2, included in Mr Windsor MP, *Submission 15*, Attachment C.

114 Councillor Filmer, Mayor of the Uralla Shire, media release, 30 November 2004, included in Mr Windsor MP, *Submission 15*, Attachment C.

accepted the situation and informed the Committee that, 'The official opening took place with appropriate courtesy and good manners.'¹¹⁵

Issues

8.101 Mr Windsor raised this matter for the Committee's consideration under subparagraph (1) (h) of the terms of reference, namely:

(h) the constitutionality, legality and propriety of any practices whereby any members of either House of Parliament are excluded from committees, boards or other bodies involved in the consideration of proposed projects, or coerced or threatened in an effort of prevent them from freely communicating with their constituents.

8.102 The evidence shows that Senator Macdonald attempted to influence the Uralla Council to exclude Mr Windsor from the official party and from speaking at the official opening. The Committee believes the attempt to exclude a local elected representative from the opening was inappropriate. There is no evidence, however, that the senator attempted to coerce or threaten the Council in the normal meaning of those words, although he did have 'some robust political conversations' with the General Manager and the Mayor, 'but they were nothing more, nothing less'.¹¹⁶ When the Council nevertheless decided to invite Mr Windsor, the senator accepted that decision and participated in the opening.

8.103 If Senator Macdonald's 'robust political conversations' were intended 'to prevent [Mr Windsor] from freely communicating with his constituents' they were unsuccessful, because it appears the Uralla Council was the final arbitrator in the matter, and Mr Windsor received some good publicity in the local press.

8.104 The Committee suggests that if Mr Windsor remains of the view that an attempt was made to interfere with his rights and duties as a Member of Parliament, there are appropriate procedures of the House of Representatives to address his concerns.

115 Senator Macdonald, correspondence, 7 March 2005, p. 2.

116 Senator Macdonald, correspondence, 7 March 2005, p. 2.

Chapter 9

The Sustainable Regions Program

9.1 The Sustainable Regions Program (SRP) was announced on 29 August 2001 by the Hon John Anderson MP, then Deputy Prime Minister and Minister for Transport and Regional Services as the major initiative under the government's *Stronger Regions, A Stronger Australia* regional statement. Its predecessor programs included the Regional Solutions Program and structural adjustment packages for various regions affected by closures of major employers or declines of major industries.¹

9.2 In line with the focus of this inquiry, this chapter discusses matters of interest to the Committee regarding the administration of the Sustainable Regions Program and points of comparison with the Regional Partnerships Program. The structure and operation of each of the Sustainable Region Advisory Committees (SRACs) are also briefly reviewed. Issues of concern with the program are drawn out in the following chapter with reference to particular SR projects.

The program

9.3 The DOTARS submission to the inquiry provides detailed information relating to the SR program, including its aims, guidelines, assessment criteria, application processes and internal procedures.² Other information about the program is available on the Sustainable Regions website.³

Funding and expenditure

9.4 Funding under the program was initially provided to eight regions facing major economic, social or environmental change.⁴ The eight 'prototype' regions selected in 2001 to receive up to \$100 million total funding until 30 June 2006 were the Atherton Tablelands, Qld, Wide Bay Burnett, Qld, Campbelltown-Camden, NSW, Far North East NSW, Cradle Coast, Tas, Gippsland, Vic, Kimberley, WA and Playford/Salisbury, SA. Six of the regions were allocated a maximum of \$12 million across the period of the program, while the Atherton Tablelands was allocated up to \$18 million and Wide Bay Burnett \$8 million.⁵

1 DOTARS, *Stronger Regions, A Stronger Australia*, August 2001; DOTARS, *Submission 14*, p. 4.

2 DOTARS, *Submission 14*.

3 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au.

4 DOTARS, *Submission 14*, p. 4.

5 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

9.5 DOTARS reported in its 2003-04 annual report that \$27.5 million had been spent in total on the SRP. \$20.9 million was expended on the program during 2003-04, and the SRP budget for 2004-05 was \$32.5 million.⁶

9.6 A further \$33 million of funding for two new sustainable regions was announced during the 2004 federal election period. The new regions selected to receive funding until 30 June 2008 were the Northern Rivers and North Coast NSW (up to \$12 million) and Western Qld and Western NSW (also known as the Darling Matilda Way Sustainable Region - up to \$21 million).⁷

Selection of the Sustainable Regions

9.7 The Committee has been unable to discover the process by which sustainable regions were selected by the minister. In public documents relating to the program or evidence to the Committee there is no mention of consultation or comparison with other regions. The DOTARS submission, however, states that the first eight sustainable regions were selected on the following grounds:

Regions (including urban fringe areas as well as those outside capital cities) were identified against criteria that included remoteness as well as important socio-economic and demographic indicators, such as levels of unemployment, family income and structural change indices, amongst others. Importantly, each of the eight regions selected initially demonstrated a strong degree of initiative, self-reliance and commitment to community action.⁸

9.8 The SRP website contains regional profile documents that provide an overview of each region's social and economic characteristics. The regional profiles are dated between December 2002 and March 2003.⁹ It is not known whether earlier iterations of these documents were developed prior to the commencement of the program to assist in selecting the regions or whether comparable analysis of other regions was undertaken.

9.9 The Committee requested that DOTARS provide an objective needs assessment to explain why the government selected the two new sustainable regions. DOTARS witnesses said they were unable to provide this information because the department was not consulted about the selection of the new regions, as it was 'a government decision-making process in the context of an election'.¹⁰ However, Ms Riggs told the Committee the decision may have been based on the department's

6 DOTARS, *Annual Report 2003-04* pp 103, 110.

7 DOTARS, *Submission 14*, p. 5.

8 DOTARS, *Submission 14*, p. 4.

9 See, for example, DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/qld/ath/profile.aspx.

10 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 49.

analysis of the socio-economic indices of a number of regions identified by the minister's office. DOTARS provided this information to the minister at his request in mid-2004.¹¹

Program administration

Role of DOTARS

9.10 Like the Regional Partnerships Program, the Sustainable Regions Program is administered by DOTARS. Representatives of the department attend SRAC meetings and provide advice to the SRAC and the Minister for Transport and Regional Services on recommended projects. DOTARS receives information about projects after the SRAC has completed its assessment of an application and input the details into the TRAX system. The department then conducts any required due diligence checks and advises the SRAC when the due diligence process is complete, after which time the SRAC makes its recommendation to the minister. The department then provides the minister with advice on the SRAC recommendation and seeks the minister's decision. The department also liaises with other government departments in relation to projects that may impact on other portfolio areas or levels of government.¹²

Role of Sustainable Region Advisory Committees

9.11 The minister appoints a Sustainable Region Advisory Committee (SRAC) in each region. The SRACs' primary role is to provide advice to the minister on relevant regional issues, including recommendations to fund or not fund project applications.¹³ The role, structure and operations of the SRACs are discussed in more detail below.

Role of the minister

9.12 Funding decisions relation to the Sustainable Regions Program rest with the Minister for Transport and Regional Services. The SR guidelines contain a similar statement to the RP guidelines regarding the effect of the program's discretionary nature:

The *Sustainable Regions Programme* is a discretionary grants programme. The funding of projects is at the discretion of the Minister for Transport and Regional Services. Therefore, meeting the assessment criteria and addressing one or more regional priorities does not guarantee funding.¹⁴

11 *Committee Hansard*, 2 February 2005, pp 49-51; *Committee Hansard*, 12 August 2005, pp 27-28.

12 For a detailed explanation of the role of DOTARS, see DOTARS, *Submission 14*, Attachment C, Sustainable Regions Programme Internal Procedures Manual.

13 Sustainable Regions website, <http://www.sustainableregions.gov.au/index.aspx>, accessed 23 August 2005.

14 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

9.13 In contrast to the fourteen RPP projects on which the minister's decision contradicted the department's advice, DOTARS gave evidence to the inquiry that there were no occasions on which the minister's decision to approve or not approve a Sustainable Regions application had differed from the department's advice.¹⁵

The SR guidelines

9.14 The *Sustainable Regions Programme Guidelines* (hereafter the 'SR guidelines') was the only publicly available guidance document on the program prepared by DOTARS.¹⁶ Unlike RPP, where applications can be submitted directly to DOTARS, applications for SRP funding must be submitted directly to the relevant SRAC and assessed against the regional priorities. Accordingly, the SR guidelines are a briefer and more general document than the RP guidelines.

9.15 The SR guidelines cover the rationale for the program, the eight 'prototype' regions, general project assessment criteria, a list of regional priorities for each region, eligibility, administration, funding and reporting requirements. There is also minimal information about the application and assessment process, bearing the disclaimer that the process may differ between each SRAC. The guidelines state that potential applicants should contact the executive officer of the relevant SRAC for more information about the program.¹⁷

Assessment criteria

9.16 There are ten general assessment criteria for the program set out in the SR guidelines, of which the following three are mandatory requirements:

- Retrospective funding will not be permitted for any projects.
- The project should not be inconsistent with other Federal Government policy objectives and relevant law.
- Proposals must comply with relevant planning and environmental laws.¹⁸

9.17 The remaining criteria include consistency with regional priorities, project sustainability and regional benefit, the absence of other avenues of government funding, the level of regional and partner support, project management experience on the part of the proponents and the project not directly competing with existing

15 Ms Riggs, *Committee Hansard*, 2 February 2005, p. 29.

16 In the course of this inquiry, the Sustainable Regions Programme Internal Procedures Manual also became public as Attachment C to DOTARS' *Submission 14*.

17 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines.

18 DOTARS, *Submission 14*, Attachment B, Guidelines – General Assessment Criteria.

businesses.¹⁹ The application of and adherence to these criteria are discussed in the following chapter.

9.18 Although it is not listed as a mandatory requirement, elsewhere the SR guidelines state that applications under the program must address one or more of the regional priority areas identified by the SRAC.²⁰ Regional priorities are discussed below in relation to each sustainable region.

Administrative processes

Due diligence

9.19 The Committee noted that the due diligence process for Sustainable Regions applications is more rigorous than the Regional Partnerships requirements. The *Sustainable Regions Programme Internal Procedures Manual* provides a three point scale outlining the level of due diligence required according to the amount of funding sought. Each step in the due diligence process is outlined.²¹ It is of particular interest that due diligence checks are conducted *prior* to the SRAC recommendation and the department's advice being presented to the minister, in contrast to the practice found in some cases with RPP where due diligence checks only occurred *after* funding had been announced.²²

Funding contracts and recovery of grant monies

9.20 Like RPP, successful applicants for SR funding enter into a funding contract with DOTARS. The Committee sought to ascertain whether SRP grant monies could be recovered if circumstances were discovered that demonstrated the grant should never have been made due to a breach of the program guidelines. The department's response indicated that while funding agreements provided for termination, there was no formal process for recovering any milestone payments that had already been made.²³ Mr Yuile, Deputy Secretary of DOTARS, told the Committee:

The question of recovering money would depend upon the circumstances involved. Clearly, the funding agreements would provide for termination if there was some breach which is contrary to the Commonwealth's intention or the Commonwealth's agreement to the grant. The question of recovery would have to be looked at in relation to individual circumstances.²⁴

19 DOTARS, *Submission 14*, Attachment B, Guidelines – General Assessment Criteria.

20 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

21 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Internal Procedures Manual, pp 8-9.

22 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Internal Procedures Manual, p. 12.

23 *Committee Hansard*, 14 April 2005, pp 104-107.

24 Mr Yuile, *Committee Hansard*, 14 April 2005, pp 104-107.

Audit and review

9.21 The SRP was the subject of an internal audit which had not been completed at the time of DOTARS' submission to the inquiry. The DOTARS submission outlines the program evaluation framework and states that the first stage post-implementation review of the SRP, completed in 2004, found that the implementation of the program had been satisfactory.²⁵ However, the Committee was only provided with summary information regarding the outcome of the review, and was therefore unable to make its own assessment.

Sustainable Region Advisory Committees

9.22 The Committee invited all eight SRACs to make a submission to the inquiry, but none responded. This was particularly inappropriate. SRACs are publicly funded bodies and play an important role in the administration of millions of dollars in public funding. As such, they need to not only be accountable but also to participate in the scrutiny of their performance and conduct.

9.23 However, the chairs and executive officers of the Atherton Tablelands SRAC (ATSRAC), Cradle Coast SRAC and Kimberley SRAC gave evidence to the Committee at public hearings and a number of SRACs included information about their evaluation processes when responding to the Committee's request for minutes and recommendations.²⁶ The composition, regional priorities and practices of each SRAC are briefly discussed below.

9.24 According to the SRP guidelines, the role of the SRAC is:

...to advise the Minister on matters relating to the implementation and management of the *Sustainable Regions Programme*, including assessment and recommendation of projects.²⁷

9.25 More specifically, SRACs are responsible for determining regional priorities in consultation with the local community, calling for expressions of interest for funding, inviting applications and assessing applications against the regional priorities and the project assessment criteria. SRACs then input information about the project into TRAX and recommend projects to the Minister for Transport and Regional Services.²⁸

9.26 Unlike the advice of ACCs in relation to RPP applications, which is only provided through DOTARS, SRACs provide recommendations about SRP applications directly to the minister. As discussed above, SRP applications cannot be

25 DOTARS, *Submission 14*, p. 21.

26 For a discussion of the Committee's request for SRAC minutes and recommendations, see Chapter 1.

27 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

28 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

submitted directly to the department.²⁹ This avoids some of the pitfalls associated with RPP projects where the ACCs' advice was not passed on to the minister by the department or the ACC was given insufficient time to assess an application.

SRAC composition

9.27 SRAC members are appointed by the minister and usually comprise business, community and local government representatives.³⁰ The nature of membership of each SRAC is outlined below.

9.28 Each SRAC is supported by an executive officer (EO) who reports to the SRAC Chair. The EO's role is similar to that of ACC EOs, and involves providing information about the program to the local community and assisting applicants to develop project proposals.³¹

Relationship with ACCs

9.29 Most SRACs have a member or an 'observer' from a local ACC who attends committee meetings. Evidence to the Committee indicated that ACCs and SRACs communicate about projects. For example, Mr Vieira, FNQACC EO, was aware that ATSRAC had considered and expressed concerns about an expression of interest for SRP funding made by A2 Dairy Marketers, as discussed in a previous chapter of this report.

9.30 One SRAC from which the Committee took evidence – Kimberley SRAC – shared administrative arrangements with the Kimberley ACC. The SRAC and ACC shared office space, an executive officer and a chairperson. This raised concerns about loose application of program guidelines and encouraging applicants to apply for the 'easiest' source of funding. For example, the Kimberley Aboriginal Pastoralists Association (KAPA) first applied for funding under one program, and when their application was rejected, applied under the other program and received funding. The project was later rescinded after a project partner withdrew its funding and KAPA provided an unsatisfactory milestone report to DOTARS.³²

Funding of SRACs

9.31 The Committee received no evidence on general arrangements for SRAC member remuneration. However, Mr McDade, former chair of ATSRAC, told the Committee he was paid \$440 per ATSRAC meeting.³³

29 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

30 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

31 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

32 Ms Riggs and Ms Gosling, *Committee Hansard*, 12 August 2005, p. 35.

33 Mr McDade, *Committee Hansard*, 13 April 2005, p. 140.

9.32 The Cradle Coast SRAC, which has different administrative arrangements as discussed in the next chapter, pays its board members an annual stipend and employs administrative and management staff. All of the SRAC's costs are funded by the nine councils that own the Cradle Coast Authority rather than from the \$12 million allocated to the region. The Committee was told that this administration emerged from the Authority's request, because the arrangements already existed and they preferred to 'keep the money in the pool for projects rather than swallowing it up in administration'.³⁴

Regional priorities

9.33 Each SRAC has different regional priorities, which form part of the mandatory requirements for applicants—their project must fit with at least one of the region's priorities. The SR guidelines state that the regional priorities were developed by each SRAC through a community consultation process.³⁵

9.34 As discussed below, the priority areas for each region differ widely. However, the SRP guidelines identify some common themes:

While each region has differing priorities, some common themes to emerge across the regions include job creation opportunities, a regional identity, education and training at all levels, community development, sustaining the environment, value adding to existing and growing industry, and establishment of a new industry.³⁶

Far North East NSW

9.35 The Far North East NSW (FNENSW) region includes the local government areas of Tweed, Ballina, Byron, Lismore and Kyogle.³⁷ \$8.5 million worth of projects from FNENSW from the region's \$12 million funding have so far been approved.³⁸

9.36 The FNENSW regional priorities include business and development, community development, environment related industries and issues, knowledge and learning industries, cultural, creative and multi-media industries, new rural and agricultural industries, industries associated with population growth, infrastructure as an enabler of development, tourism, and value-adding to traditional industries.³⁹

34 Mr Jaensch, *Committee Hansard*, 30 June 2005, p. 65.

35 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

36 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

37 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 4.

38 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/nsw/fne/projects.aspx, accessed 23 August 2005.

39 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/nsw/fne/priorities.aspx, accessed 23 August 2005.

9.37 The FNENSW SRAC has four members, including a director of a national sporting body and former federal councillor with a national tourism association; a production manager with a news and media company; a local hotelier and property developer; and a local mayor.⁴⁰

Campbelltown/Camden, NSW

9.38 This sustainable region includes the Campbelltown and Camden local government areas, and has \$11.3 million of approved projects from its allocation of up to \$12 million.⁴¹ Campbelltown-Camden SRAC has a strong business focus in its committee membership, which includes members of a local business enterprise centre, business proprietors, and the manager of a local university's Office of Regional Development.⁴²

9.39 Its priorities include addressing the region's social issues, improving regional employment opportunities, developing and supporting local industry, attracting sustainable and environmentally friendly industry, youth needs, natural and built environment sustainability, and improving transport infrastructure.⁴³

Gippsland, Vic

9.40 The Gippsland Sustainable Region covers the local government areas of Latrobe, Bass Coast Shire, South Gippsland, Wellington, East Gippsland and part of Baw Baw. It has also been allocated up to \$12 million and has approved projects of \$12.8 million.⁴⁴

9.41 The Gippsland regional priorities include developing local leadership capabilities, supporting existing industries, developing and promoting a regional identity, identifying consequences of an ageing population, facilitating investment, education and training, small business assistance, provision of water, sewerage and transport infrastructure, sustainable natural resource management, access to energy sources and telecommunications.⁴⁵

40 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/nsw/fne/priorities.aspx, accessed 23 August 2005.

41 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 4.

42 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/nsw/cam/committee.aspx, accessed 23 August 2005.

43 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/nsw/cam/priorities.aspx, accessed 23 August 2005.

44 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/vic/gip/projects.aspx, accessed 31 August 2005.

45 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/vic/gip/priorities.aspx, accessed 31 August 2005.

9.42 The Gippsland SRAC is chaired by a former energy industry executive and includes a local government director of shire development and a retired police officer, author and historian.⁴⁶

Wide Bay Burnett, Qld

9.43 This SRAC covers the largest number of local government areas of the first tranche of SRACs—Biggenden, Bundaberg, Burnett, Cherbourg Community Council, Cooloola, Eidsvold, Gayndah, Hervey Bay, Isis, Kilkivan, Kingaroy, Kolan, Maryborough, Miriam Vale, Monto, Mundubbera, Murgon, Nanango, Perry, Tiaro, Wondai, Woocoo and Yarraman District of Rosalie Shire. It has access to up to \$8 million and has approved projects of \$7.6 million.⁴⁷ The Wide Bay Burnett region also has an additional \$4 million allocated to it under a structural adjustment package.⁴⁸

9.44 The committee has a broad membership, including two mayors, a TAFE campus director, a grazier and two local business representatives.⁴⁹ Its priorities include fostering innovative industries, enhancing social infrastructure, supporting sustainable use of natural resources, building on the culture of the region and encouraging youth retention.⁵⁰

Kimberley, WA

9.45 The Kimberley SRAC includes the local government areas of Broome, Halls Creek, Derby West Kimberley and Wyndham East Kimberley.⁵¹ The SRAC has approved projects of approximately \$11 million.⁵²

9.46 It shares its chair, executive officers and offices with the Kimberley ACC. Some of the implications of this joint administrative support structure are discussed above. The Kimberley SRAC members include three shire presidents and four people from business and community organisations.⁵³

46 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/vic/gip/committee.aspx, accessed 31 August 2005.

47 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/qld/wbb/projects.aspx, accessed 22 August 2005.

48 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 4.

49 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/qld/wbb/committee.aspx, accessed 22 August 2005.

50 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/qld/wbb/priorities.aspx, accessed 22 August 2005.

51 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 4.

52 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/wa/kim/projects.aspx, accessed 23 August 2005.

53 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/wa/kim/committee.aspx, accessed 22 August 2005.

9.47 Kimberley SRAC's regional priorities include regional infrastructure, local cooperative projects, indigenous enterprise and economic development, regional marketing and new sustainable industry.⁵⁴

Playford/Salisbury, SA

9.48 Playford/Salisbury SRAC covers the local government areas of Playford and Salisbury. Approved projects from the region total \$8.5 million.⁵⁵ The SRAC includes two people from the private sector and three from local government.⁵⁶

9.49 Its priorities focus on improving education, training, infrastructure, community health, social inclusion and industry.⁵⁷

Cradle Coast (North West and West Coast Tasmania)

9.50 Cradle Coast SRAC covers the local government areas of King Island, Circular Head, Waratah/Wynyard, Burnie, Central Coast, Devonport, Latrobe, Kentish and West Coast.⁵⁸ Approved projects in the region total \$7.8 million.⁵⁹

9.51 The regional priorities include participation in education, training and employment, investment in growth industries and value-adding to traditional industries, creation of new industries, environmental protection and reversing population decline.⁶⁰

9.52 CCSRAC membership has a broad base of skills and knowledge, including ten members from banking, business, small business, a university, several mayors and an ACC Tasmania member.⁶¹ CCSRAC is based on the previously existing Cradle Coast Authority, and the Committee considered that its structure represented best practice among the SRACs. It is further examined in the following chapter.

54 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/wa/kim/priorities.aspx, accessed 22 August 2005.

55 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/sa/pla/projects.aspx, accessed 22 August 2005.

56 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/sa/pla/committee.aspx, accessed 22 August 2005.

57 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/sa/pla/priorities.aspx, accessed 22 August 2005.

58 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 4.

59 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/tas/nwwc/projects.aspx, accessed 23 August 2005.

60 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/tas/nwwc/priorities.aspx, accessed 23 August 2005.

61 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/tas/nwwc/committee.aspx, accessed 23 August 2005.

Atherton Tablelands

9.53 The Atherton Tablelands SRAC (ATSRAC) covers the local government areas of Atherton, Eacham, Herberton and Mareeba.⁶² ATSRAC is comprised of the chair of the Far North Queensland ACC, a university professor and the mayors of the four local government areas covered by the SRAC.⁶³

9.54 It was allocated up to \$18 million until 30 June 2006 and has approved projects totalling \$14.6 m.⁶⁴ A number of projects recommended for approval by ATSRAC are discussed in the following chapter, as is the committee's composition.

Western Queensland and Western NSW (Darling Matilda Way)

9.55 The Darling Matilda Way SRAC was one of the new regions announced during the 2004 election period. It covers the largest geographical region of any SRAC. The Committee heard that as of August 2005 the SRAC had been appointed, had met twice and was developing a community consultation process to determine regional priorities.⁶⁵

9.56 The Darling Matilda Way Sustainable Region covers all or part of the local government areas of Aramac, Balranald, Barcaldine, Barcoo, Blackall, Bogan, Boulia, Bourke, Brewarrina, Broken Hill, Bulloo, Carrathool, Central Darling, Cobar, Diamantina, Hay, Ilfracombe, Isisford, Jericho, Longreach, Murweh, Paroo, Quilpie Tambo, Unincorporated NSW, Wentworth and Winton. Darling Matilda Way has been allocated funding of up to \$21 million until 30 June 2008.⁶⁶

9.57 The SRAC is composed of four representatives from ACCs, one mayor and several business and community representatives.⁶⁷ Its draft regional priorities address tourism, industry, skilled workforce, lifestyle and business services, infrastructure, natural asset management and business development capability.⁶⁸

62 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 4.

63 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/qld/ath/committee.aspx, accessed 30 August 2005.

64 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/qld/ath/projects.aspx, accessed 30 August 2005.

65 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 27.

66 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/DMW/projects.aspx, accessed 30 August 2005.

67 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/DMW/committee.aspx, accessed 30 August 2005.

68 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/DMW/priorities.aspx, accessed 30 August 2005.

Northern Rivers and North Coast NSW

9.58 The Northern Rivers and North Coast NSW Sustainable Region covers the local government areas of Kempsey, Nambucca, Bellingen, Coffs Harbour, Clarence Valley and Richmond Valley Shires. Northern Rivers and North Coast NSW has been allocated funding of up to \$12 million until 30 June 2008.⁶⁹

9.59 The SRAC's draft regional priorities are job creation, retention and sustainability, skilling the region, youth retention and indigenous employment.⁷⁰ At August 2005 it had met twice and had requested its executive support staff to seek expressions of interest from organisations in the region. The ACC shares its chair and executive support staff with the Mid North Coast ACC.⁷¹ The six members include a local government and business and community representatives.⁷²

Issues with the program

9.60 The Committee's examination of the Atherton Tablelands Sustainable Region Advisory Committee and SR projects in the region drew out some concerning issues, which are discussed in the following chapter. The Committee also made a number of recommendations aimed at improving the transparency of the process of appointing SRAC members and increasing scope for community awareness of and participation in the application process, as outlined in Chapter 11.

69 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/nsw/nrnc/index.aspx, accessed 30 August 2005.

70 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/nsw/nrnc/priorities.aspx, accessed 30 August 2005.

71 Ms Riggs, *Committee Hansard*, 12 August 2005, p. 27.

72 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/nsw/nrnc/committee.aspx, accessed 30 August 2005.

Chapter 10

Atherton Tablelands Sustainable Region Advisory Committee

10.1 The Atherton Tablelands Sustainable Region Advisory Committee (ATSRAC) was the subject of a large amount of evidence given to the Committee in the course of this inquiry.¹ The evidence from members of the Atherton Tablelands community was overwhelmingly negative, and focused on perceptions of conflict of interest arising from the composition of ATSRAC, concerns that approved projects did not meet the SRP guidelines, the lack of transparency of the application process and allegations of misplaced regional priorities.

10.2 This chapter examines the Committee's concerns with the structure and operation of ATSRAC, using several projects as examples. Evidence received by the Committee regarding the Cradle Coast SRAC highlighted the contrast between the two advisory committees. Therefore, the Cradle Coast SRAC's composition and operation are discussed as a counterpoint throughout this chapter.

Background

10.3 The Committee heard that ATSRAC has little credibility with members of the community because of the number of projects that had failed or been viewed as unworthy, a belief that program criteria were not applied consistently and lack of transparency of processes.²

10.4 The evidence suggested that, rather than contributing to the development and economic recovery of the Atherton Tablelands region, the Sustainable Regions program had introduced a wedge into the community. Dr Geoffrey Stocker provided the following observation:

In my opinion the system of grants used by the Commonwealth DRAP [Dairy Regional Assistance Program] and ATSRAC programs in an endeavour to support disadvantaged communities such as those on the Atherton Tableland, has not in general had the desired effects. Indeed they have been so divisive that some have not taken up approved grants while others proudly proclaim that their new businesses were established without government funding.³

1 See *Committee Hansard*, 13 April 2005, 14 April 2005, 23 June 2005, 11 August 2005; and *Submissions 1 and 1a*, 17, 21, 40, 44, 46, 48 and 48a, 49, 50, 55 and 55a.

2 *Committee Hansard*, 14 April 2005, pp 63-65.

3 Dr Stocker, *Submission 21*, p. 4.

10.5 The Committee heard that Ms Riggs, Executive Director of Regional Services, DOTARS, had expressed some reservations about the regional benefits of projects recommended for SR funding by ATSRAC:

What strikes me as I look at the projects that have been supported in the Atherton region is that it is hard to see how a number of smaller projects contribute to a more sustainable future, viewed on a regional basis. I can see that each of them has merit at an individual level for a very small part of the Tableland, but I cannot see how the committee has brought those together into a strategic view of a platform for a more sustainable future.⁴

10.6 ATSRAC's broad regional priorities, which are reproduced below, are comparable to those of the other SRACs (discussed in the previous chapter). The fact that the Committee did not receive any evidence of SRP projects on the Atherton Tablelands that had broad community support suggests that problems may have emerged from a lack of local ownership of the priority setting process, a lack of ability among ATSRAC members and staff to recognise and promote suitable projects, the poor or inconsistent application of program guidelines and community perceptions about the politicisation of the committee.

Committee composition

10.7 Many of the submitters' and witnesses' concerns focused on the presence on ATSRAC of the mayors of each of the four local government areas—Mayor Jim Chapman of Atherton Shire, Mayor Anne Portess of Herberton Shire, Mayor Mick Borzi of Mareeba Shire and Mayor Ray Byrnes of Eacham Shire. ATSRAC had only two other members—initially Mr Peter McDade (then ATSRAC Chair), a former officer of the Queensland Department of Primary Industries based in Brisbane; and Professor Bob Beeton, of the School of Natural and Rural Systems Management at the University of Queensland, also based in Brisbane.⁵

10.8 The ATSRAC committee's membership, which lacks locally based industry and community representatives, would appear to conflict with the following statement in the SRP guidelines that SRACs should have a broad-based membership:

Each region is led by a locally based Sustainable Region Advisory Committee (SRAC) comprising business, community and local government members.⁶

10.9 As discussed in the previous chapter, DOTARS declined to provide advice regarding the process by which SRAC members are selected and appointed, although Mr McDade gave evidence to the Committee that he was approached around August 2001 by Ms Wendy Armstrong, an adviser to the Hon John Anderson MP, then

4 Ms Riggs, quoted in *Committee Hansard*, 23 June 2005, p. 50.

5 Mr McDade, *Committee Hansard*, 13 April 2005, p. 140.

6 DOTARS, *Submission 14*, Attachment A, Sustainable Regions Programme Guidelines, p. 5.

Minister for Transport and Regional Services, and offered the position. He believed he had been selected because of his involvement with many Atherton Tableland industries through his former role with the Queensland Department of Primary Industries in industry deregulation and registering primary producer cooperatives.⁷

10.10 The four mayors' membership of the committee evolved from a previously existing taskforce, which had aimed to bring together the four shires of the Atherton Tablelands region to address strategic development issues.⁸ Mayor Chapman gave evidence that there had been no consultation process prior to the appointment of ATSRAC—the mayors simply received a written offer of appointment.⁹

10.11 Mr McDade told the Committee he had believed his and Professor Beeton's presence would ensure the independence and rigour of ATSRAC.¹⁰ However, there was a clear perception among those who gave evidence to the Committee that ATSRAC had been appointed for the mayors to 'look at how to spend this \$18 million' and divide it up between the shires.¹¹ For example, Dr Stocker stated:

The makeup of the...committee, especially the dominant presence of the four local Mayors, was bound to introduce at least a suspicion of parochialism into deliberations.¹²

10.12 Mr Blanckensee, long-term chair of Far North Queensland ACC, took over from Mr McDade as ATSRAC chair in late 2004. He told the Committee that at the start of the SR program, he believed the mayors attempted to break the money down between their shire boundaries 'rather than looking at what was required across the whole tablelands to build a strong region'.¹³

10.13 The Committee notes that ultimately, responsibility for the composition and functionality of the ATSRAC board rests with the minister who appointed it. The Committee also recognises the difficult position of the mayors, who were elected to represent their shire but required, as members of ATSRAC, to subsume the interests of the shire under a strategic view of regional benefit. However, these tensions may not have been problematic had ATSRAC been appointed with a more balanced membership.

10.14 Evidence to the Committee regarding the process for appointing another SRAC contained similar concerns—that the SRAC was 'appointed by the Federal

7 Mr McDade, *Committee Hansard*, 13 April 2005, p. 139.

8 Mr Blanckensee, *Committee Hansard*, 13 April 2005, p. 136; Mayor Byrnes, *Committee Hansard*, 11 August 2005, p. 3.

9 Mayor Chapman, *Committee Hansard*, 11 August 2005, p. 4.

10 Mr McDade, *Committee Hansard*, 13 April 2005, p. 140.

11 Mr Nasser, *Committee Hansard*, 14 April 2005, p. 37.

12 Dr Stocker, *Submission 21*, p. 3.

13 Mr Blanckensee, *Committee Hansard*, 13 April 2005, pp 133-134.

Government and was not representative of the range of views and interests of the North Coast Community'.¹⁴

10.15 Several witnesses suggested a more appropriate structure for ATSRAC would have included successful local businesspeople with a strong knowledge of the dominant local industries. Views diverged on whether some elected representatives should be committee members, but the inclusion of industry representation to ensure a more strategic approach was a common theme.¹⁵

Cradle Coast SRAC model

10.16 In contrast, the Cradle Coast SRAC, located in north-west and western Tasmania, has been successfully accepted by the community and no contentious SRP projects appear to have emerged from the region. This seems to be mainly due to the structure and operating processes of the Cradle Coast Authority, which forms the basis of the Cradle Coast SRAC. Mr Roger Jaensch, chairman of Cradle Coast SRAC, told the Committee that the Cradle Coast Authority is a joint authority under the Local Government Act of Tasmania and is owned and funded by the nine local government councils of north-west and western Tasmania.

10.17 The nominees for the independent board are selected on the basis of skills relevant to the region in the areas of agriculture, industry, commerce, education, tourism and local government.¹⁶ Industry and community members of the board are appointed through a public nomination process and two positions are appointed from nominations by member councils and general managers.¹⁷

10.18 Mayor Roger Chalk of Waratah-Wynyard Shire Council, one of the Cradle Coast Authority shareholder councils, informed the Committee that the Authority had evolved from a regional organisation of the nine councils represented by the nine mayors. He said it had been a very political organisation and lacked cohesion for addressing regional issues—therefore the councils established the Authority in 1999 to take a cohesive approach to addressing the economic difficulties the region was experiencing.¹⁸

10.19 When the region was announced in 2001 as one of the sustainable regions, the Cradle Coast Authority proposed to the minister that the Authority would be an appropriate body to take on the role of advisory committee, rather than duplicating its structure and functions by creating a separate SRAC. The minister appointed the

14 Ms Cameron, *Submission 60*, p. 2.

15 Mrs Allwood, *Committee Hansard*, 14 April 2005, p. 2; Mr Blanckensee, *Committee Hansard*, 13 April 2005, pp 135, 137; Dr Stocker, *Committee Hansard*, 14 April 2005, p. 112.

16 Mr Jaensch, *Committee Hansard*, 30 June 2005, p. 58.

17 Mr Jaensch, *Committee Hansard*, 30 June 2005, p. 58.

18 Mayor Chalk, *Committee Hansard*, 30 June 2005, p. 60.

Authority board as the advisory committee for the region, with the addition of one member of ACC Tasmania.¹⁹

10.20 The Committee considers the Cradle Coast SRAC structure a good model for ATSRAC and other SRACs, particularly given that it evolved from a previous council of mayors and balances local government representation with business expertise.

Regional priorities

10.21 As discussed in the previous chapter, each SRAC was required to develop a set of regional priorities, which form part of the assessment criteria for SRP applications. These priorities were to be developed in conjunction with the local community through various means including community meetings.

10.22 ATSRAC's Action Plan and Prospectus are available from the Sustainable Regions website.²⁰ The prospectus provides a framework for government and private investment in the region and the action plan outlines the objectives of the program, the regional priorities and the role of ATSRAC.²¹ The Atherton Tablelands regional priorities, as outlined in ATSRAC's Action Plan, state that ATSRAC will support projects that:

- Have clear long term outcomes that are sustainable;
 - [Have] Clear objectives that address local priorities and for which progress can be measured;
 - Encourage the development and retention of intellectual property within the Region;
 - Encourage the local development of tourism;
 - Contribute to the development and maintenance of a “Tableland” brand;
 - Improving [sic] community wellbeing;
 - Build on earlier projects (ie, from the former Mayoral Taskforce); are synergistic with parallel projects; lead to new job creation; see projects as a capital investment leading to enduring benefits...that will be sustained and retained within the Region; develop the enthusiasm, skills and optimism of the Region’s youth; and address gaps in community capacity in areas of community need;
 - Build youth enterprise in the Region;
 - Utilise and enhance the Region’s amenity and modern life style choices;
- and

19 Mr Jaensch, *Committee Hansard*, 30 June 2005, p. 59.

20 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/qld/ath/pubs.aspx, accessed 1 August 2005.

21 ATSRAC, *The Atherton Tablelands Strategic Framework and Prospectus for Regional Development 2002-05*, January 2003; ATSRAC, *Atherton Tablelands Sustainable Region Advisory Committee Action Plan 2002-05*, July 2002.

- Consider large projects in the context of the 2010 Regional Plan for Far North Queensland.²²

10.23 Mr McDade told the Committee that the Action Plan was developed by an ATSRAC subcommittee chaired by Professor Beeton in association with the Atherton Neighbourhood Centre. The subcommittee used data from various government departments and the expertise of some people who had done 'research on the history of the tableland and some of the more current issues that were being developed'.²³

10.24 The Committee is concerned that a document upon which the initial allocation of \$18 million of taxpayers' money depended was essentially developed by summarising preceding studies of the tableland. There seems to have been little in the way of real consultation or community input to the document, as required under the program.

Dissatisfaction with the community consultation process

10.25 Mr McDade described the public consultation process on the draft document as including a round of six public meetings to which industry leaders were invited and the release of the draft document through the ATSRAC office, council offices and the Tableland Economic Development Corporation. Changes were made as a result of the consultation.²⁴

10.26 A number of people gave evidence that they had attended initial community meetings at the start of the SRP and were dissatisfied with the approach taken by ATSRAC in developing the regional priorities. For example, Dr Stocker told the Committee that the initial community forums were a case of 'sit down and look at this and go away' without any opportunity for discussion of the issues. He also expressed concerns that ATSRAC's strategic plan was developed by a consulting firm and was not seen as the community's vision.²⁵

10.27 Similar concerns were expressed by a submitter in relation to Far North East New South Wales (FNENSW) SRAC's regional priority setting process, which involved a vote at community consultation meetings, advertised as 'information sessions'. Ms Alicia Cameron claimed that the process by which priorities were determined was 'easily distorted to suit particular interests' and 'was in no way reflective of broader community priorities or needs'.²⁶

22 ATSRAC, *Atherton Tablelands Sustainable Region Advisory Committee Action Plan 2002-05*, July 2002, p. 7.

23 Mr McDade, *Committee Hansard*, 13 April 2005, p. 141.

24 Mr McDade, *Committee Hansard*, 13 April 2005, p. 142.

25 Dr Stocker, *Committee Hansard*, 14 April 2005, p. 114.

26 Ms Cameron, *Submission 60*, p. 2.

Allegations of misplaced regional priorities

10.28 The Committee received evidence from residents of Dimbulah, a town of approximately 500 residents located in Mareeba Shire. They represented the Dimbulah Reticulated Water Action Group which lobbies to gain access for Dimbulah to reliable and safe water supply, as the town's current supply was unreliable and suffered from very low water pressure and unhygienic water quality.²⁷

10.29 The Queensland Government had committed to funding 40% of the approximately \$1 million cost of pressure pumps, a new reservoir and an improved filtration system. Mareeba Shire Council had said that Dimbulah residents would be responsible for funding the remaining 60%—a prohibitive cost for the small community. The Action Group therefore requested Mareeba Shire Council to apply for SRP funding for the 60% cost.²⁸ However, the Committee heard that Dimbulah residents had been informed that the provision of a water system would probably not fall within the scope of the SR program because other sources of government funding were available and therefore Mareeba Shire Council would not apply for funding for the project.²⁹

10.30 The Dimbulah residents were particularly disillusioned because they had been involved in initial ATSRAC workshops at Mareeba Town Hall after the demise of the local tobacco industry, at which the problems with the Dimbulah water supply were discussed.³⁰ Dimbulah witnesses also said that as part of the establishment of an industrial estate in Mareeba, Mareeba Shire Council had received SR funding for basic water, sewerage, electricity and telecommunications infrastructure.³¹

10.31 The claim that provision of a water system is out of scope of the program is questionable in light of the following statement in DOTARS' submission:

Funding is available for a wide range of projects including minor infrastructure, skills building, encouraging small businesses and local enterprises, as well as for addressing social development, environmental and cultural issues.³²

27 Ms Fabris, Director of Nursing, Dimbulah Health Clinic, correspondence to Mr Briggs, Chief Executive Officer, Mareeba Shire Council, 7 April 2005, in Ms Taylor, answers to questions on notice, received 14 April 2005.

28 Ms Taylor, *Committee Hansard*, 14 April 2005, pp 51-52.

29 Ms Taylor, *Committee Hansard*, 14 April 2005, p. 50.

30 Mr McKinley, *Committee Hansard*, 14 April 2005, p. 53.

31 Mr McKinley, *Committee Hansard*, 14 April 2005, p. 56.

32 DOTARS, *Submission 14*, p. 5.

10.32 The priorities of other sustainable regions, for example, Far North East NSW SRAC, include 'infrastructure as an enabler of development',³³ and the Gippsland SRAC priorities are even more specific, including 'provision of water, sewerage and transport infrastructure'.³⁴

10.33 The Committee heard that as a result of continued pressure from Dimbulah residents, Mareeba Shire Council made a unanimous decision at its meeting of 5 April 2005 to lodge an expression of interest with ATSRAC for the Dimbulah water system renewal project.³⁵ By this stage, however, it was too late, as ATSRAC was not accepting any further applications because the remaining funds in the program were expected to be exhausted to process existing applications.³⁶ It is regrettable that this expression of interest was not lodged at an earlier date.

10.34 The Committee believes the renewal of Dimbulah's water supply fits within ATSRAC's regional priorities. The Committee recognises that access to sewerage, communications and water infrastructure are fundamental to regional development as their absence means that many industries cannot operate.

Cradle Coast regional priorities

10.35 Cradle Coast SRAC took a different approach to developing regional priorities that also garnered more community support. It initiated a regional strategic planning process and analysed several industries that required development. From this process Cradle Coast SRAC created a Sustainable Regions Investment Plan³⁷ and proposed to the minister that the money available to the region would be best distributed through a strategic investment approach rather than a competitive small grants program for the whole of the money. The plan outlines 'where investment could be applied to address some of the long-term structural and economic issues that made us one of the regions chosen to participate in this program'.³⁸ The minister accepted the investment plan as a basis for use of the region's SR funds, subject to his discretion.³⁹

33 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/nsw/fne/priorities.aspx, accessed 23 August 2005.

34 DOTARS, Sustainable Regions website, www.sustainableregions.gov.au/vic/gip/priorities.aspx, accessed 31 August 2005.

35 Mareeba Shire Council, General Meeting Minutes, 5 April 2005, tabled 14 April 2005.

36 Mr Lawrence, ATSRAC Executive Officer, email to Mr Briggs, 5 April 2005, in Ms Taylor, answers to questions on notice, received 14 April 2005.

37 Cradle Coast SRAC, *Cradle Coast Sustainable Regions Investment Plan*, October 2002, tabled document, 30 June 2005.

38 Mr Jaensch, *Committee Hansard*, 30 June 2005, p. 59.

39 Mr Jaensch, *Committee Hansard*, 30 June 2005, p. 59.

10.36 Mr Jaensch explained to the Committee that the investment plan contained six key areas, each structured differently. For example, the tourism and the education and training programs were run as targeted grants programs, and the food industry program included a \$1 million small grants component as well as a project commissioned with the University of Tasmania to develop a food innovation centre to create research and development capability to support the local food industry.⁴⁰

10.37 The Committee believes this approach is a good model for other SRACs as it includes more specific priorities and allocates some funding towards research to identify how the program could best be structured and targeted to benefit the region. The Committee recognises that grants based programs are not sufficient to meet regional development needs and an element of strategic investment planning is also required.

Application of program guidelines

10.38 A number of witnesses from the Atherton Tablelands had attended community meetings at the commencement of the Sustainable Regions Program and had received the impression that the purpose of the program was to create employment in new, innovative or more diverse industries to replace the declining, deregulated or closed industries in the region such as the tobacco, timber and dairy industries.⁴¹

10.39 However, many people saw the SR grants on the Atherton Tablelands as assisting individual businesses to gain an unfair competitive advantage. For example, Mr Denis McKinley told the Committee that he believed some people saw the program as an opportunity to 'feather their own nests' and commented that few of the SRP projects were 'really focused on the overall outcome for the tableland...'⁴²

10.40 Mr Trevor and Mrs Annette Allwood talked about SRP funding polarising rather than galvanising the small Atherton Tablelands community, and said that '...people who are in a position where they can utilise the funding are seen as opportunistic'.⁴³ Mr and Mrs Allwood believed it was fair if a competitor set up with their own funding, but saw inequities with their competitors being subsidised by the government.⁴⁴

10.41 The inquiry also raised questions about the rigour of ATSRAC's assessment processes and adherence to program guidelines. Particular concerns included competitive neutrality considerations, allegations of political favouritism or conflict of

40 Mr Jaensch, *Committee Hansard*, 30 June 2005, pp 61-62.

41 Mr and Mrs Allwood, *Committee Hansard*, 14 April 2005, p. 2.

42 Mr McKinley, *Committee Hansard*, 14 April 2005, p. 62.

43 Mr and Mrs Allwood, *Committee Hansard*, 14 April 2005, p. 7.

44 Mr and Mrs Allwood, *Committee Hansard*, 14 April 2005, p. 10.

interest and the requirement for relevant approvals (e.g. development approvals) to be obtained prior to a project being approved.

Lack of transparency

10.42 One witness, Ms Jean Campbell, summed up many Atherton Tablelands residents' concerns with the lack of transparency of the SR program and lack of avenues for community input as follows:

The public has only become aware of grant approvals (some) when they have been announced in the local newspapers. This has caused considerable anger in the community with many taxpayers questioning the wisdom of some of the funding allocations and what they believe to be a waste of their tax dollars on projects that ultimately will not benefit them, the public, in any significant way. Many members of the public feel alienated and isolated in that there appears no avenue to protest or object to ATSRAC decisions.⁴⁵

10.43 The Committee recognises that ATSRAC was unable to release commercial-in-confidence information, because under the program requirements SRACs are not permitted to disclose that an application has been received until after the minister has made a decision about it.⁴⁶ The effect of these restrictions, however, could be overcome if the government removed, or at least relaxed, commercial-in-confidence provisions.

10.44 DOTARS suggested that there were adequate mechanisms for third parties to raise concerns in relation to funding decisions made under the program, including writing to the minister or parliamentary secretary to ask that a decision be reconsidered or reviewed; or contacting the Commonwealth Ombudsman.⁴⁷ The Committee does not consider these avenues sufficient, and believes the government should consider alternatives such as those discussed below that would allow public scrutiny and input during the application assessment process.

Competitive neutrality

10.45 The SRP general assessment criteria, which SRACs are required to assess each application against, include the following:

The project does not compete directly with existing businesses, unless it can be shown that there is an unsatisfied demand for the product/service or the product/service can be provided in a new way.⁴⁸

45 Ms Campbell, *Submission 55*, p. 2.

46 Mr McDade, cited in *Committee Hansard*, 14 April 2005, p. 13.

47 Ms Riggs, correspondence, received 12 July 2005, p. 2.

48 DOTARS, *Submission 14*, Attachment B, Guidelines – General Assessment Criteria.

10.46 DOTARS gave evidence to the Committee that the SRP competitive neutrality requirements were as follows:

Under the Sustainable Regions Programme the proponents are required in the application form to identify how their project will impact on other businesses or groups in the area. In addition the SRAC when looking at a project is required to give consideration to the criterion of competitive neutrality.

The Department relies in part on the local knowledge of the SRAC and EO to determine if there are potential competition issues.⁴⁹

10.47 Mr McDade explained ATSRAC's investigation of competitive neutrality processes as involving ATSRAC making its own inquiries, requesting product differentiation information from the proponent and relying on ATSRAC members' and executive officer's local knowledge.⁵⁰ He also said that ATSRAC believed that this criterion could be met even if a proponent was ostensibly competing against other businesses, if they could sufficiently differentiate their product or introduce new services.⁵¹

10.48 The Committee was concerned to discover that information in relation to this criterion was only sought from *proponents*, and that ATSRAC and DOTARS did not carry out any further investigation such as contacting existing businesses or seeking advice from people with expertise in the relevant industry.⁵²

10.49 Dr Stocker suggested to the Committee that competitive neutrality could be more thoroughly assessed by opening applications made by individual businesses to public scrutiny. The removal of commercial-in-confidence qualifications would give community members and competing businesses the opportunity to make submissions on the proposed project.⁵³ While the Committee recognises that proponents may wish certain information to remain confidential, they must accept that in applying to receive public funding, there is an increased obligation to disclose information to the public. Dr Stocker suggested that making proponents aware at the start of the process that their application would be public would allow them the choice of accepting the accountability requirements or not applying:

I would say that applicants should be warned at the start that their application will not be treated in confidence, so they should not bother to put in one [if they do not accept this condition]. If it is treated in confidence it creates too many other problems. If their proposal is so good that they

49 Ms Riggs, correspondence, received 12 July 2005, p. 2.

50 Mr McDade, *Committee Hansard*, 23 June 2005, p. 26.

51 Mr McDade, *Committee Hansard*, 23 June 2004, p. 30.

52 ATSRAC commissioned an independent competitive neutrality review on one occasion in relation to the Rose Gums project—see *Committee Hansard*, 23 June 2005, pp 24-25.

53 Dr Stocker, *Committee Hansard*, 14 April 2005, p. 109.

have to keep it confidential, they should use conventional sources of finance, such as banks or finance companies.⁵⁴

10.50 Ms Campbell suggested the introduction of a public notice as the final step before project approval was granted, with a one-month period for members of the public to comment on the proposal. She believed such a measure would 'ease public disquiet' and bolster the due diligence process.⁵⁵

10.51 The Committee received relevant evidence from the Pilbara ACC about an alternative approach it took to assessing competitive neutrality regarding an application for funding made under the RPP. The ACC required the proponent to obtain letters of support or acknowledgement from identified competitors.⁵⁶ This ensured that competitors were aware of the application and had an opportunity to put their case to the ACC before it made a recommendation about the project.

10.52 The three projects discussed below, JAM Custom Kitchens, the Atherton Hotel and Kalamunda Ecostay, raised concerns among community members relating to competitive neutrality, conflict of interest and the lack of transparency of the application process.

JAM Custom Kitchens and Furniture

10.53 On 15 April 2004, Senator Ian Campbell, as acting Minister for Transport and Regional Services, approved an application by JAM Custom Kitchens and Furniture for \$204,350 of SRP funding to build a showroom, workshop and timber heritage display. The grant was announced on 6 May 2004.⁵⁷

10.54 Mr and Mrs Allwood, proprietors of Tolga Woodworks studio, gallery and café in Tolga, gave evidence to the Committee that they did not believe ATSRAC had carried out its duties in relation to competitive neutrality before recommending JAM's application for approval, as the new showroom was to be located within 50 metres of their business, which had been operating for over 20 years:⁵⁸

Due diligence was not done, product differentiation was assessed by asking the proponent to comment, the findings of the Tourism Strategy were ignored, and an assessment of the impact on my business was not carried out. No one from the Committee or the Department ever contacted me. This

54 Dr Stocker, *Committee Hansard*, 14 April 2005, p. 118.

55 Ms Campbell, *Submission 55*, p. 2.

56 Mr Simpkins, Executive Officer, Pilbara ACC, *Committee Hansard*, 14 July 2005, p. 124.

57 DOTARS, *Revised SRP tables*, received 11 May 2005, p. 8.

58 Mr and Mrs Allwood, *Submission 1 and 1a*; Mr and Mrs Allwood, *Committee Hansard*, 14 April 2005.

was a "me too" attempt to capitalise on my successful woodworking enterprise, rather than an innovative tourism project.⁵⁹

10.55 Mr McDade told the Committee that ATSRAC had conducted its normal investigation of competitive neutrality, including requiring the proponent to address that question in the application form and drawing on the local knowledge of ATSRAC members and staff—in this case, Mayor Chapman—who 'knew both parties very closely and knew their businesses very closely'. ATSRAC also asked JAM to provide further information about product differentiation, and the Committee made the assessment that the criterion was not being breached.⁶⁰

10.56 Mr and Mrs Allwood also expressed concerns about the lack of transparency regarding the assessment of competitive neutrality, and requested from ATSRAC and JAM information about product differentiation and the products that JAM would be producing. They were refused that information on the grounds it was commercial-in-confidence.⁶¹ However, DOTARS provided the following information to the Committee:

The applicant advised that no other business in Tolga provided cabinet making services. JAM also provided an explanation of how its showroom would complement other woodwork enterprises in Tolga whose products were aimed at a different segment of the market.⁶²

10.57 The Committee questions why Mr and Mrs Allwood were not provided with this information when they requested it. Mr and Mrs Allwood's main concern was that the first they knew of the project was when its approval was announced, and they had not had an opportunity to comment with respect to an application that would directly affect their business, and there was no process for appeal or objection.⁶³

10.58 JAM Custom Kitchens and Furniture advised ATSRAC in October 2004 that the company would not take up the offer of funding.⁶⁴ The Committee heard that the construction of the workshop is proceeding without the proponent taking up the grant.⁶⁵ This suggests that the project would have occurred irrespective of the funding, and therefore the grant would not have resulted in a net benefit to the Atherton Tablelands or met the SRP project assessment criterion of '[t]he extent to which Australian Government funding is needed to realise the project...'⁶⁶. However, the fact

59 Mr and Mrs Allwood, *Submission 1*, p. 2.

60 Mr McDade, *Committee Hansard*, 23 June 2005, p. 42-43.

61 Mr and Mrs Allwood, *Committee Hansard*, 14 April 2005, p. 2.

62 Ms Riggs, correspondence, received 12 July 2005, p. 5.

63 Mr and Mrs Allwood, *Committee Hansard*, 14 April 2005, p. 13.

64 Ms Riggs, correspondence, received 12 July 2005, p. 5.

65 Mr Allwood, *Committee Hansard*, 14 April 2005, p. 12.

66 DOTARS, *Submission 14*, Attachment B, Guidelines - General Assessment Criteria.

that the funding was not taken up does not excuse the shortcomings in the program that became evident in relation to this project, for example, overlooking competitive neutrality considerations, over-reliance on the proponent's view of competitive neutrality and a lack of transparency.

The Atherton Hotel

10.59 Competitive neutrality concerns were also raised in relation to a \$500,000 grant to the Black Stump Hotel, Atherton. The purpose of the grant was as follows:

Project funding...will support the construction of ten four star hotel rooms with business facilities, a 350 seat function room and a 50 seat conference facility.⁶⁷

10.60 The Committee received evidence from a number of Atherton residents, most of whom owned or worked for other licensed premises in Atherton, that there was a deficit in the due diligence process in that no existing businesses with similar facilities were given the opportunity to comment on whether they approved or disapproved.⁶⁸

10.61 Mr Michael Nasser, part owner of the Barron Valley Hotel in Atherton, believed the government 'should not be handing out taxpayers' money to duplicate existing facilities that are threatening the livelihoods and jobs of current employees'.⁶⁹ The Committee also heard allegations that the extension funded by SRP would be used to house poker machines and entertainment acts rather than conferences, although DOTARS indicated that the funding agreement would not allow for SRP funds to be used to construct space to house poker machines.⁷⁰ However, the Committee was not satisfied that the grant would not be used to facilitate other, non-conference related activities.

10.62 Mr Len Curtis, an Atherton Shire Councillor, told the Committee that Atherton currently has other conference venues and function centres catering for between 250 and 450 people, and the town only hosts two or three conferences a year. He attempted to get Atherton Shire Council to place a condition on the development approval that the extension funded by SRP could only be used for functions, but was unable to do so.⁷¹

10.63 The witnesses also expressed animosity at government subsidisation of competitors rather than 'fair' competition. Mr Nasser said:

If anyone else wants to get in on the act and do it on a level playing field, well and good. But, if someone is going to get half a million bucks to build

67 DOTARS, *Revised SRP tables*, answer to question on notice, received 11 May 2005, p.7.

68 Mr Nasser, *Committee Hansard*, 14 April 2005, p. 18.

69 Mr Nasser, *Committee Hansard*, 14 April 2005, p. 18.

70 Ms Riggs, correspondence, received 12 July 2005, p. 3.

71 Mr Curtis, *Committee Hansard*, 14 April 2005, p. 20.

an extension to their pub to duplicate what we do, we are going to lose a number of employees because there is just not enough people in the town to support it.⁷²

10.64 The witnesses asked for copies of the letters of support for the project, but were denied on the grounds it was commercial-in-confidence information.⁷³ They also contacted the then Minister for Transport and Regional Services to request a review of the decision. DOTARS stated that the minister requested the department undertake a review of the material facts relating to the project, and the review 'confirmed that the project will contribute to expanding the Tablelands Tourism identity'.⁷⁴

10.65 Apart from being an inadequate answer to a serious matter, the department's response suggests the project's expected contribution is limited to raising the region's tourism profile ('identity') and that that the review avoided or glossed over the project's impact on local employment or the business of competitors. If so, the department's review is likely to be seen by already disgruntled local residents as adding insult to the injury caused through the shortcomings of the process with the grant in the first place.

Kalamunda Ecostay

10.66 On 17 April 2003, ATSRAC recommended for funding an SRP application by Innesfree Pty Ltd to provide eco-tourism based accommodation for backpackers (who were expected to work as fruit pickers on nearby farms) and self-drive tourists. On 9 July 2003, a \$150 000 grant was approved for the Kalamunda Ecostay project by then Deputy Prime Minister and Minister for Transport and Regional Services, the Hon John Anderson MP.⁷⁵ This project raised questions about compliance with relevant planning laws and concerns about possible conflict of interest and the lack of transparency of the application process.

10.67 Evidence about this project also raised questions about inconsistencies in ATSRAC's assessment of projects against the program criteria. Although ATSRAC recommended the Kalamunda Ecostay project, the Committee heard from Ms Gaye Taylor, a Mareeba Shire Councillor, that a similar proposal had been rejected on the grounds it did not fit the program's criteria:

For several years, one of our other councillors has been asking for bunkhouses to be built at the Dimbulah Caravan Park. We have nowhere to put itinerant workers when they come to the town. A council officer emailed ATSRAC and received the response that the bunkhouse project

72 Mr Nasser, *Committee Hansard*, 14 April 2005, p. 25.

73 Mr Nasser, *Committee Hansard*, 14 April 2005, p. 27.

74 Ms Riggs, correspondence, 12 July 2005, p. 4.

75 Ms Riggs, correspondence, 12 July 2005, p. 4; DOTARS, *Revised SRP tables*, answer to question on notice, received 11 May 2005, p.7.

was not within the criteria and that council may want to reconsider the application.⁷⁶

10.68 The email from Ms Yvonne Tunney, then ATSRAC Executive Officer, to Mr Kieran Coyle of Mareeba Shire Council, stated that the bunkhouse project would not appear to meet SR criteria including competitive neutrality requirements and ATSRAC's priorities such as a 'significant regional focus...and...significant regional sustainability and viability'.⁷⁷ The same questions could be asked of the Kalamunda Ecostay project, as discussed below.

10.69 The Committee took evidence from Mr Leslie and Mrs Jenny Tenni, who live next door to the project site. They had initially believed their neighbours intended to establish a small number of cabins to accommodate itinerant workers. However, when construction commenced in November 2004 and a material change of use application was lodged with the council, they discovered that the project for backpacker accommodation had become a caravan park to accommodate 140 people. They expressed concerns because the land zoning did not allow for this use. Mr and Mrs Tenni were concerned to discover that SR funding for this project had been approved before council approvals were obtained.

10.70 One of the mandatory requirements which SR applications must meet is that '[p]roposals must comply with relevant planning and environmental laws'.⁷⁸ Council development approval, however, had not been obtained at the time the project was applied for or approved, and building appears to have commenced in November 2004—well before approvals were obtained. DOTARS advised the Committee that ATSRAC 'recommended this project with the knowledge that the development approvals had not been finalised, but were confident that these approvals would be forthcoming'.⁷⁹

10.71 Mr McDade told the Committee that ATSRAC had considered the Kalamunda proposal under its normal processes, including comparing it against program criteria and regional priorities and investigating letters of support, and recommended it for approval because it would help to address the deficit in itinerant workers on the tablelands in peak harvest time.⁸⁰ He also said that a letter from Atherton Shire Council to the proponent had been attached to the application. The letter outlined the steps the proponent would need to take to gain the necessary approvals. Mr McDade believed that the criterion relating to approvals was not a matter for ATSRAC to

76 Ms Taylor, *Committee Hansard*, 14 April 2005, p. 54.

77 Ms Tunney, email to Mr Coyle, 14 December 2004, in Ms Taylor, answers to questions on notice, received 14 April 2005.

78 DOTARS, *Submission 14*, Attachment B, Guidelines - General Assessment Criteria.

79 Ms Riggs, correspondence, 12 July 2005, p. 4.

80 Mr McDade, *Committee Hansard*, 13 April 2005, pp 154-155.

consider as it would be considered at the due diligence stage undertaken by a person contracted by DOTARS.⁸¹

10.72 Ms Riggs informed the Committee that DOTARS had made the funding agreement for the Kalamunda Ecostay project conditional on development approvals being obtained as part of the first milestone.⁸² The Committee is concerned that a supposedly mandatory project assessment criterion was not really considered during the project assessment stage, and was only enacted through a funding agreement developed well after the project had been recommended, approved and announced.

10.73 Mayor Jim Chapman informed the Committee that Atherton Shire Council members voted four to three to give the approval to change the zoning of the land.⁸³ Council officers, however, had recommended the project not be approved because it was inconsistent with the shire's planning scheme.⁸⁴

10.74 The Committee is concerned that Mayor Chapman did not abstain from the vote, as a potential conflict of interest existed. Mayor Chapman had previously made a decision to support this project as a member of ATSRAC and was also one of the people who approved the change of land zoning on the council.⁸⁵

10.75 The Committee heard that ATSRAC has a conflict of interest declaration process whereby mayors declare a conflict of interest when discussing a matter in their shire. In some cases they leave the meeting. The ATSRAC minutes of 21 March 2002 stated that members discussed the issue of conflict of interest and 'pending advice to the contrary from DOTARS, proposals put forward by councils need to have no ATSRAC member abstain'.⁸⁶ ATSRAC, however, was unable to provide any evidence that DOTARS provided advice on this matter.⁸⁷

Cradle Coast project assessment model and conflict of interest processes

10.76 Cradle Coast SRAC deals with potential conflicts of interest by seeking declarations, excluding the relevant members from deliberations on proposals where conflicts may arise and noting them in the minutes of the SRAC meetings.⁸⁸

81 Mr McDade, *Committee Hansard*, 23 June 2005, p. 39.

82 Ms Riggs, correspondence, 12 July 2005, p. 4.

83 Mayor Chapman, *Committee Hansard*, 11 August 2005, p. 13.

84 Mr Curtis, *Committee Hansard*, 14 April 2005, pp 28-29; Mayor Chapman, *Committee Hansard*, 11 August 2005, p. 13.

85 Mr Tenni, *Committee Hansard*, 14 April 2005, p. 68.

86 *Committee Hansard* 13 April 2005, p. 134; *Committee Hansard*, 11 August 2005, pp 8-9.

87 ATSRAC, answer to question on notice, received 10 June 2005.

88 Mr Jaensch, *Committee Hansard*, 30 June 2005, p. 66.

10.77 Cradle Coast SRAC's project assessment processes involve a detailed assessment by each committee member of various aspects of each project. When applications are sent to committee members, comments and technical advice are included, as is an assessment sheet that is completed by each member before attending the meeting. The process in the meeting includes a discussion about each project, covering whether there is sufficient information for it to be assessed and then going through each of the eligibility and assessment criteria. Mr Jaensch told the Committee he ensures that every SRAC member has an opportunity to state whether they believe the criteria have been met.⁸⁹

10.78 Cradle Coast SRAC added to the program's generic project assessment criteria a set of criteria specific to each priority area outlined in the investment plan. Each committee member is required to give a proposal a score out of five against each criterion. The scores are then averaged and included with the recommendation to the minister to show the relative strength of the application compared to other applications.⁹⁰ The Committee suggests that other SRACs examine Cradle Coast SRAC's internal project assessment processes and consider adopting a similar approach.

The @GIS project

10.79 A further sign of the troubled state of the Sustainable Regions Program in the Atherton Tablelands area emerged in relation to a grant to three councils for a geographic information system (GIS) project. Atherton, Eacham and Herberton Shire Councils set up a separate entity, known as Atherton Tablelands GIS (@GIS) to run this project.⁹¹ The then Minister for Transport and Regional Services approved SRP funding of \$1.6 million for the project on the 9 July 2003. The funding was intended to:

...enable local governments, businesses, organisations and individuals to better understand the region and stimulate growth in investment, trade and the regional economy through electronic collection and manipulation of data.⁹²

10.80 The Committee became aware of allegations of corruption in relation to the administration of the project, including claims that \$110,000 of Sustainable Regions funds had been 'absorbed' by the Atherton Shire Council.⁹³ Other allegations included that the three councils had not provided the \$1.5 million of cash and in-kind support

89 Mr Jaensch, *Committee Hansard*, 30 June 2005, pp 62-63.

90 Mr Jaensch, *Committee Hansard*, 30 June 2005, pp 62-63.

91 For a discussion of the of the council's establishment of this project and in-kind and cash commitment, see *Committee Hansard*, 11 August 2005, pp 9-11.

92 DOTARS, *Revised SRP tables*, received 11 May 2005, p. 7.

93 Ms Kerri-Ann Stout, 'Funds probe may widen', *Cairns Post*, 13 September 2005.

required under the conditions of the grant⁹⁴ and that a consulting firm had been engaged to review the project without seeking three written quotes as required under the Queensland Local Government Act.⁹⁵

10.81 The Queensland Audit Office has the appropriate jurisdiction to investigate these matters and the Committee understands that it is about to commence an audit of the financial statements of Atherton Shire Council, Eacham Shire Council, Herberton Shire Council and @GIS as part of its annual audit program.⁹⁶ The Committee notes that the Queensland Crime and Misconduct Commission also has jurisdiction to investigate local government joint ventures and has recently released public sector fraud and corruption guidelines.⁹⁷

10.82 The Committee considers that this project demonstrates the importance of tracking government-funded projects beyond their initial funded period to ensure outcomes are achieved, monies are expended appropriately and the promised partner support is actually provided.

Conclusion

10.83 The Atherton Hotel, Kalamunda Ecostay and JAM Custom Kitchens projects highlight the inherent difficulties in providing government grants to the private sector, namely that while the grant may have a particular purpose, it frees up capital for other purposes (for example, the purchase of poker machines), raises due diligence and competitive neutrality questions and can create fractures in small and already fragile communities. This particularly applies if the grant process is not seen as transparent, rigorous and equitably accessible.

94 K. Stout, 'Auditors probe three councils', *Cairns Post*, 12 September 2005.

95 *Committee Hansard*, 14 April 2005, pp 29-32.

96 Advice from the Queensland Audit Office to the Senate Finance and Public Administration References Committee Secretariat, 23 September 2005.

97 Crime and Misconduct Commission Queensland, 'CMC releases public sector fraud and corruption guidelines', media release, 15 March 2005.

Chapter 11

Conclusions and Recommendations

Summary

11.1 The Committee's inquiry into the regional programs has served as a general study of the importance and benefits of compliance with robust guidelines and the pitfalls of bypassing proper checks and oversight measures. Evidence to the inquiry shows that the main processes by which projects are proposed, considered and approved for funding under the Regional Partnerships Program are reasonably sound, although there is scope for building more rigour into the governance framework. However, the case studies in this report are telling. In instances where the usual processes for developing and assessing applications have been bypassed or truncated, or the department employed the (then) unpublished SONA procedures in order to allow projects to become eligible for RPP funding, projects have stalled, collapsed or attracted controversy.

11.2 The Committee considers that administration of the RP program can be improved by requiring adherence to the usual application development and assessment processes and tightening these measures. Guidelines and procedures which deliberately create flexibility or ambiguity and thus allow projects to avoid the program's usual criteria and administrative processes should be removed.

11.3 The processes and procedures of the Sustainable Regions Program would also appear to be broadly sound. However, the Committee's examination of SR projects in the Atherton Tablelands region highlighted problems arising from an insufficiently representative SRAC structure, opaque processes for appointing SRAC members and a lack of transparency around application processes.

11.4 In general terms, the Committee's findings point to the importance of strengthening the governance framework for both programs with improved accountability and transparency measures. Regular reporting to the Parliament and greater openness at several levels around decision making within these programs would improve monitoring and scrutiny of funding decisions and administrative practice. This is crucial to enable the Parliament to keep itself informed of a significant area of public expenditure, and would serve as a check on arbitrariness and politicisation of funding decisions. Stronger accountability measures are equally important for good management of these programs at the levels of departmental administration and consultative committees.

Regional Partnerships Program

Program administration

SONA guidelines

11.5 As discussed in the case studies of the report, the SONA procedures have been employed by DOTARS to allow projects which do not meet the RPP eligibility and assessment criteria to be approved and funded from the program. For example, the Primary Energy project was clearly ineligible for RPP funding. Regardless, following a ministerial request, the project was funded by using the SONA procedures. The SONA procedures appear to provide so much flexibility that the government could, in effect, fund from RPP almost any project it favours that is loosely relevant to regional development.

11.6 The ANAO's *Administration of Grants Better Practice Guide* states that 'Criteria for eligibility should be straightforward, easily understood and effectively communicated to potential applicants'.¹ The SONA procedures were only made publicly available after the program became subject to intense scrutiny in the Parliament with the Government under pressure to explain some of its funding decisions. Prior to this the SONA procedures had limited circulation via an internal procedures manual only available to relevant DOTARS employees and to members and staff of the ACCs. Even then, as demonstrated at the Committee's hearings, the procedures were not commonly known or understood by ACC chairs and executive officers. Applicants, as in the case of Primary Energy, were left in the dark about the existence of the procedures and that they had been used to approve funding for their project.

11.7 The SONA procedures represent a major accountability black hole. They expand the scope for departmental and ministerial discretion to unacceptable limits, providing a default to fund projects in an arbitrary fashion and undermining the integrity of the program. The Committee considers that the reasons for having room in the program to fund worthy projects that do not conform to funding criteria can be better met through other mechanisms, which are discussed below. The Committee considers that the SONA procedures should be withdrawn from operation.

Recommendation 1

11.8 The Committee recommends that the operation of the SONA guidelines cease.

Area Consultative Committees

11.9 As discussed in chapters 2 and 3, DOTARS encourages proponents to contact the local ACC to seek assistance in developing and submitting RPP applications.

1 ANAO, *Administration of Grants Better Practice Guide*, May 2002, p. 20.

However, applications can be lodged directly with DOTARS, as occurred in the case of several contentious projects.

11.10 The Committee considers that involvement of the ACCs in the application development process is an important safeguard for the RPP program. Several ACCs advised the Committee that they would not put applications forward to DOTARS unless they were of an acceptable standard and complied with criteria in the guidelines.

11.11 As demonstrated in the case studies to this report, where applications have not been developed in consultation with the relevant ACC, subsequent problems have arisen. In the case of Tumbi Creek, Wyong Shire Council was advised by a ministerial staffer to submit the applications directly to DOTARS. The Council did not consult the relevant ACC prior to lodging the applications and, as discussed in Chapter 5, the submitted applications were of very poor quality. In the case of Beaudesert Rail, the decision to give an RPP grant was made at the political level, with no involvement from the relevant ACC.

11.12 The Committee considers that allowing proponents to lodge applications directly with DOTARS leaves the application process open to undue pressure and political intervention to expedite lodgement of applications, at the expense of sound project and application development.

11.13 In comparison, the application process for SRP is less open to abuse. Proponents are required to first provide an expression of interest to the relevant SRAC. SRACs then invite proponents of suitable projects to lodge a full application. This process ensures that SRACs are consulted in relation to the development of all SRP applications.

11.14 Evidence to the inquiry from the department and many of the ACC chairs and executive officers emphasised the important role of ACCs in providing comments on applications from their region. ACC comments were viewed as an important source of independent advice and a means of assessing the local priority given to each project.

11.15 As discussed in the case studies of this report, in some instances the ACC's assessment of an application was not provided to the minister for consideration or the ACC had not been given sufficient time by DOTARS to provide an informed assessment.

11.16 In the Committee's view, the rigorous assessment procedures employed for many RPP projects are undermined by the examples where the ACC assessment role has been truncated or bypassed due to pressures to expedite grant approvals. The automated referral of applications to ACCs for comment has limited value if procedures are not adopted to ensure adequate response times are given and that the ACC assessment is actually passed on to the decision maker. ACC assessments should be an integral part of the decision making process for all applications, not an optional element that can be bypassed depending on circumstances.

11.17 There is less scope for the advisory committee's assessments to be bypassed or timeframes truncated in the SR program because SRACs provide advice directly to the minister.

Recommendation 2

11.18 The Committee recommends it be mandatory for all Regional Partnerships program applications to be developed in consultation with local Area Consultative Committees.

Recommendation 3

11.19 The Committee recommends that Area Consultative Committees must receive copies of relevant applications and be afforded an opportunity to consider and make recommendations not less than ten working days from receipt of the application.

Multi region projects

11.20 The Committee considers that consultation with the ACCs is an integral part of RPP application development and should be mandatory for all applications. Notwithstanding, the Committee recognises that collaborative and multi-region projects should be supported by regional development programs and that these may not easily align to one ACC region.

Recommendation 4

11.21 The Committee recommends that the Department of Transport and Regional Services incorporates and outlines appropriate assessment procedures for multi-region funding applications into the published Regional Partnerships program guidelines.

Recommendation 5

11.22 The Committee recommends that multi-region funding applications be referred to all relevant Area Consultative Committees for review comments and recommendations.

Funding decisions

11.23 As described throughout the report, the decision to fund or not to fund RP projects is taken by the relevant minister and should be informed by at least two sources of advice: the advice of the department and the priority rating of the relevant ACC. Chapter 2 noted that there have been a number of cases in which the minister's decision did not accord with the department's advice. As discussed in Chapter 3, some stakeholders are of the view that funding decisions are too arbitrary and that due weight is not given to the relevant ACC's advice.

11.24 The ANAO's *Administration of Grants Better Practice Guide* specifies that a record of the reasons for grant decisions should be maintained and be publicly accessible:

Appraisal forms or some other systematic process should provide for the recording of reasons for decisions and recommendations to demonstrate the process had been rigorous and transparent. They should be maintained consistently as part of the official record...and be accessible under Freedom of Information provisions.²

And later:

In particular, the reasons for the departures from agreed appraisal procedures or decisions that are contrary to recommendations of officials or other expert panels and advisers should also be properly documented. ... The retention and availability of these records protect all those involved in the selection process against any suggestion that projects have not been selected on their merits.³

11.25 The Guide also makes relevant observations regarding the accountability of ministerial grant decisions:

Where individual Ministers or groups of Ministers make administrative decisions or judgements involving the meritorious selection of one application over another, documentation, recording the appraisal process and the reasons for selecting particular applications would aid program transparency and public accountability.⁴

11.26 In the Committee's view, RPP funding decisions currently lack transparency. While the Committee was informed that all funding decisions are auditable by the ANAO,⁵ documents informing the decision and recording the decision outcome are not open to public or parliamentary scrutiny. This is a fundamental gap in the accountability and transparency of the program and one that leaves RP vulnerable to perceptions of politicisation, if not exposed to political bias and circumvention of proper process. The Committee considers that accountability of RP funding decisions would be strengthened if basic information about the funding recommendations and decisions were open to public and parliamentary scrutiny.

Recommendation 6

11.27 The Committee recommends that a biannual statement be tabled in the Senate by the Minister representing the Minister for Transport and Regional Services, listing:

2 ANAO, *Administration of Grants Better Practice Guide*, May 2002, pp 22-23.

3 ANAO, *Administration of Grants Better Practice Guide*, May 2002, p. 47.

4 ANAO, *Administration of Grants Better Practice Guide*, May 2002, p. 23.

5 DOTARS, answers to questions on notice, received 11 May 2005, p. 3.

- **the Regional Partnerships program grants approved in the preceding six month period;**
- **the Department of Transport and Regional Services' and Area Consultative Committee's recommendations; and**
- **where the funding decision is inconsistent with the departmental and/or Area Consultative Committee recommendation, a statement of the reasons for the decision.**

Distribution

11.28 The ANAO's Administration of Grants Better Practice Guide states:

Grant administrators should be aware that geographic and political distribution of grants may be seen as indicators of the general equity of the program.⁶

11.29 As discussed in Chapter 2, while the proportion of RP grants approved is similar across Government, Opposition and Independent electorates, there are substantial differences in the number of projects put forward and amount of funding approved. The Committee asked DOTARS to consider, in consultation with the ACCs, possible reasons for the difference in the number of applications coming forward across electorates. In May 2005, the department advised that it 'is currently looking at options for including this issue in future evaluation activities for the programmes'.⁷

11.30 The Committee expects DOTARS to report to the Committee both the option it adopts for assessing this issue and the results of the evaluation. The Government should examine the evaluation results and identify mechanisms to address the equity of funding distribution.

Recommendation 7

11.31 The Committee recommends that the Government address inequities in the distribution of Regional Partnerships program funding consistent with the ANAO Better Practice Guide.

Eligibility

11.32 As discussed in Chapter 2, local government bodies are eligible to apply for RPP funding. However, ACT government which performs both state and local government functions is ineligible. The Committee considers that ACT government departments should be allowed to apply for RPP funding for projects that would otherwise be eligible under the RPP guidelines.

6 ANAO, *Administration of Grants Better Practice Guide*, May 2002, p. 22.

7 DOTARS, answers to questions on notice, received 11 May 2005, p. 4.

Recommendation 8

11.33 The Committee recommends that the exclusion of the Australian Capital Territory government from eligibility for Regional Partnerships program funding be rescinded.

Area Consultative Committees

Funding

11.34 It was evident to the Committee that effective and dedicated executive officers and ACC staff are integral to delivering outcomes through RPP. In numerous submissions the Committee received evidence of the commitment of ACC chairs, executive officers, staff and volunteers to delivering successful RPP projects. At hearings ACC staff demonstrated their in-depth knowledge and commitment to local projects and dedication to following and supporting projects beyond the initial funding. It is necessary that ACCs are adequately resourced to engage skilled staff and to operate effectively in their region.

11.35 The committee has not had the opportunity to assess the operational funding allocated to each ACC, or to discuss with all ACCs their operational requirements. However, the concerns raised by some ACCs regarding the costs of operating in different areas are noteworthy and point to limitations in current ACC funding arrangements.

11.36 The Committee also considers that the ACCs' current annual funding arrangement does not give ACCs the opportunity to strategically plan their short to medium term operations. A three-year funding cycle would allow ACCs to plan their activities and operations more effectively.

Recommendation 9

11.37 The Committee recommends that the Government review resourcing of Area Consultative Committees, and training for committee members and employees, to ensure that they can adequately perform their role in relation to Regional Partnerships program.

Recommendation 10

11.38 The Committee recommends the introduction of three-year operational funding contracts for Area Consultative Committees.

Performance assessment

11.39 As discussed in Chapter 3, evidence to the inquiry indicated that the employment focussed aims and performance measures for RPP do not meet the development needs of all regions. The Committee also heard that the partnership funding targets of the program are prohibitive for some communities. Yet, as evident in the case studies, expected levels of partnership support have been waived for some high cost projects with political profile.

11.40 The Committee considers that the Government should examine the concerns raised during this inquiry regarding RPP outcomes and performance measures. There is scope for DOTARS to further negotiate with ACCs to ensure that each ACCs' Key Performance Indicators (KPIs) are appropriate for their region.

Recommendation 11

11.41 The Committee recommends that the Government negotiates with each Area Consultative Committee in relation to key performance indicators, including job creation and partnership support, to ensure performance measures are regionally appropriate.

Area Consultative Committee recommendations

11.42 The ANAO's Better Practice Guide notes that accountability and transparency is increased when the reasons for decisions about successful projects are made publicly available. The Guide also observes that it is important that unsuccessful applicants have access to the reasons their applications were not approved. In the ANAO's words, 'together with the publication of reasons for selection of successful projects, this [information would assist] applicants in preparing any future application'.⁸

Recommendation 12

11.43 The Committee recommends that Area Consultative Committee recommendations be disclosed to funding applicants upon request.

Review

11.44 As noted in Chapter 3, the Committee questions whether the contribution of some ACCs to the RP program is effectively encapsulated by the roles and functions currently specified. The Committee also questions whether the currently defined roles maximise ACC members' contribution to the program.

Recommendation 13

11.45 The Committee recommends that the Government conduct a review of the role of Area Consultative Committees to ensure that their contribution to regional development is maximised.

8 ANAO, *Administration of Grants Better Practice Guide*, May 2002, p. 48.

Sustainable Regions Program

Sustainable Regions Advisory Committees

Appointment method

11.46 As discussed in Chapters 9 and 10, the Committee was unable to examine the process by which the minister selects and appoints SRAC members. In view of the serious concerns within the Atherton Tablelands region about the structure of ATSRAC and interests of its members, there is a clear cut case for greater exposure and transparency of the appointment process. As SRACs are intended to represent local interests and concerns, at the very least the process by which they are constituted and members selected should be open for public scrutiny. The public is entitled to see how the regional representative body, charged with recommending the distribution of public funds to benefit their region, is appointed. Furthermore, openness in this area may reduce some of the existing barriers between regional bodies and the communities they are supposed to represent, thus assisting the SR program to achieve its intended outcomes.

Recommendation 14

11.47 The Committee recommends that the appointment process for Sustainable Regions Advisory Committee members, including selection criteria, be made public.

Appointment model

11.48 As discussed in Chapter 10, the Committee saw benefits in the skills-based composition of the Cradle Coast SRAC, compared with the local government emphasis of the Atherton Tablelands SRAC. The Committee considers that a skills-based approach to the composition of SRACs is integral to ensuring that sound projects are developed and delivered and that SRACs maintain non-parochial, region focussed objectives.

Recommendation 15

11.49 The Committee recommends that the Government adopts a skills-based approach in relation to the appointment of future Sustainable Regions Advisory Committees, including the two new bodies announced during the 2004 federal election campaign.

Regional Partnerships and Sustainable Regions Programs

Australian National Audit Office

11.50 The case studies and issues discussed in this report illustrate some serious inadequacies and inconsistencies in the administration of the RP and SR programs. The Committee considers that there is significant scope for improving the administration, accountability and transparency of both programs. In light of these

concerns, the Committee considers it appropriate that the ANAO conduct an audit of the administration of the RP and SR programs.

Recommendation 16

11.51 The Committee recommends that the Australian National Audit Office audit the administration of the Regional Partnerships and Sustainable Regions programs, with particular attention to the case studies highlighted in this report.

Program administration

Planning approvals

11.52 In Chapters 2 and 5 of the report the Committee has remarked on the confusion created by different versions of the RPP guidelines being concurrently available on the department's website. In the earlier version of the guidelines, projects that were in the process of obtaining relevant approvals or licences were ineligible for funding. The revised version stated that projects that had not obtained the relevant approvals or licences 'will not generally be considered'.

11.53 As described in the Tumby Creek case study, while the revised guideline allowed the Tumby Creek grants to be *approved* without relevant licences, a funding agreement could not be entered into before the licences were obtained. Effectively, the project remained ineligible for funding until the relevant approvals and licences were obtained, but the grant announcement could be made. This circumstance raises serious concerns about the intent of the revised guideline. As described in the Tumby Creek case study, that project had particular political profile. Funding was announced by the Prime Minister in a marginal electorate just days before the 2004 federal election was announced. Yet the project was at the time ineligible to actually obtain the announced funding. As at mid-August 2005 a funding agreement for the project still had not been entered into.

11.54 The Tumby Creek dredging grant announcement lacked both integrity and transparency. Requiring potential RPP projects to obtain necessary licences and approvals prior to grant approval and announcement would prevent such situations occurring. It would also assist in ensuring the viability of RPP projects.

11.55 As discussed in Chapter 10, under SRP project assessment criteria it is mandatory that proposals comply with relevant planning and environmental laws. Yet the Committee discovered that for the Kalamunda Ecostay project, relevant planning approvals were not obtained prior to the grant being approved. Instead, this requirement was enacted in the funding agreement—well after the 'project assessment' stage and after the grant approval and announcement.

Recommendation 17

11.56 The Committee recommends that projects that cannot obtain or have not yet obtained relevant approvals or licences not be eligible for Regional Partnerships or Sustainable Regions funding.

Competitive neutrality

11.57 Many complaints raised in relation to SRP projects on the Atherton Tablelands, particularly grants to private businesses, related to the fact that people were not aware of the projects until after they had been approved and had not been afforded the opportunity to raise concerns or objections about the projects.

11.58 The current process for assessing competitive neutrality, that is, seeking information from the *proponent*, is inherently limited and insufficient. The Committee believes that giving the public, or at least potential competitors, the opportunity to lodge any objections or concerns about potential RPP and SRP projects would improve the rigour of the application assessment process. Any objections or concerns raised would provide ACCs, SRACs and DOTARS with a larger evidence base to inform their assessments and recommendations. Community perceptions about unfair advantage may also be allayed.

11.59 There are numerous possible avenues for allowing competitors the opportunity to lodge objections or complaints about proposed RPP and SRP projects. Competitors could be identified by the SRAC or ACC and written to, or public notices placed, inviting a response. The Committee considers that the Government, in extending these funding programs to private enterprises, has an obligation and responsibility to ensure that consequent competitive neutrality issues are adequately addressed.

Recommendation 18

11.60 The Committee recommends that competitive neutrality procedures be strengthened, including the introduction of a procedure for potential competitors to lodge objections.

Due diligence

11.61 The Committee recognises that due diligence assessment processes need to be located within a robust risk assessment framework. It would be injudicious for DOTARS to undertake equivalent due diligence assessments for all applications without regard to project size, complexity and proponent. However, the Committee is disturbed by evidence which shows that in some instances basic checks have not been undertaken. That the Department was not aware of legal action by a state government department against the proponent of the A2 Dairy Marketers project, highlights existing shortcomings in the due diligence process.

Recommendation 19

11.62 The Committee recommends that due diligence processes be strengthened including a routine inquiry relating to legal action against applicants.

*Approval***Recommendation 20**

11.63 The Committee recommends that no program funding be approved for projects that do not meet Regional Partnerships and Sustainable Regions guidelines and fail other tests including proper due diligence.

Ministerial intervention

11.64 The Committee believes that stronger measures need to be established to ensure that ministers remain at arm's length from decisions on applications for projects that are located in their electorates. This is essential for reducing the risk of a conflict of interest in funding decisions. The case of Primary Energy discussed in Chapter 7 involved an application from the portfolio minister's electorate. Although the department followed established practice by referring the case to another minister as the decision maker, one of the portfolio minister's advisers intervened in the process and caused the department to alter its advice to the decision maker. Regardless of whether the adviser's intervention was appropriate, this example reveals that the current 'practice' is inadequate and, as this instance demonstrates, leaves the process open to perceptions of a conflict of interest and partisanship.

11.65 The Committee considers that it should be mandatory that ministers are kept at arm's length from decisions on applications based in their electorates. In such cases, ministers and their offices should be quarantined from the decision making process. In instances (such as the Primary Energy case) involving applications from the senior portfolio minister's electorate, the practice of copying departmental briefings to the junior minister or parliamentary secretary to the portfolio minister should be suspended until *after* a decision has been made. This should be formal policy.

11.66 The Committee is also deeply concerned by the nature of the ministerial intervention in the department's advice regarding the Primary Energy application, discussed in Chapter 7. It is one thing for ministers and their staff to direct departments to implement government policy; it quite another for ministers and their staff to direct departments to alter or tailor departmental advice to the government on the assessment and approval of grants. The Committee considers intervention of the kind demonstrated in the Primary Energy case to be inappropriate and antithetical to the principle of the public service providing frank and impartial advice to ministers.

Recommendation 21

11.67 The Committee recommends that it become formal policy that ministers and their staff are kept strictly at arm's length from decisions, including all relevant departmental advice, on applications from their own electorates. The portfolio minister and his or her staff should not be included in the circulation of departmental advice on applications for projects based in the minister's electorate.

Recommendation 22

11.68 The Committee recommends that Ministers and Parliamentary Secretaries, and their staff, should be prohibited from intervening in the assessment of grants.

Extended caretaker period

11.69 Concerns about the propriety of the approval and announcement of RPP grants in the lead up to the 2004 federal election were a key reason for the establishment of this inquiry. A large proportion of grant approvals occurred in the three months leading up to the election announcement. Allegations of 'pork barrelling' and that the programs had been used as election 'slush funds' demonstrate that these programs are currently open to perceptions of bias, particularly in the context of an election campaign. The Committee considers it appropriate that measures be put in place to improve the accountability of ministerial discretion in these programs during the lead up to an election. These measures may assist in avoiding perceptions that funding decisions are being made for party-political purposes.

Recommendation 23

11.70 The Committee recommends that from the 1 July preceding a general election, the following procedures apply to grant approvals and announcements:

- **when the Minister's decision to approve or not approve a grant is different to the recommendation of either the Area Consultative Committee or the Department, or the funding amount approved by the Minister is different to the amount recommended, then the grant approval decision be made in conjunction with the relevant Shadow Minister. The Committee further recommends that all grants approved in these circumstances be announced jointly by the Minister and the Shadow Minister.**

Program transition

11.71 The Committee considers that there are lessons to be learned from the controversy around the RP grant to Primary Energy Pty Ltd. A number of concerns relating to that grant arose because the original application had been made under one program, which became defunct, and the grant was subsequently approved under another program. The absence of appropriate transitional arrangements and procedures at the end of the program for applications still under consideration was a major shortcoming.

11.72 With the first tranche of the SRP scheduled to end on 30 June 2006 it is important that appropriate procedures are put in place to manage the cessation of the program. In particular, consideration should be given to procedures to manage unresolved applications. Similar considerations should be made in relation to RPP.

Recommendation 24

11.73 The Committee recommends that the government develops and discloses procedures to govern the cessation or transition of the Regional Partnerships and Sustainable Regions programs.

*Regional development**Review*

11.74 While this inquiry has highlighted administrative shortcomings and accountability deficits in the regional programs, the Committee is also cognisant of the need for an examination of whether such programs achieve regional development outcomes.

11.75 As discussed in Chapter 2, the Committee has noted the inadequacies of the reviews and evaluations so far conducted of the Regional Partnerships and Sustainable Regions programs. Accordingly, the Committee considers that a thorough review must be undertaken of the effectiveness and appropriateness of grants-based programs as a mechanism to achieve regional development.

Recommendation 25

11.76 The Committee recommends that the government reviews the efficacy of a grants-based approach to regional development.

Value for money

11.77 As discussed in Chapter 2, the Committee was concerned at evidence that a number of projects to be funded under the RP program would duplicate the Tasmanian Government's recreational infrastructure program. The Committee considers that value for money from the RP and SR programs can only be achieved through coordination with other levels of government. As well as avoiding duplication, coordination of regional development priorities can multiply the benefits of local, state and commonwealth government programs.

11.78 Existing aspects of the Regional Partnerships and Sustainable Regions programs could be drawn upon to maximise coordination opportunities, for example, partnership funding requirements that are often fulfilled by state governments, the ability of local governments to apply for funding and the presence of many local government representatives on ACCs and SRACs.

Recommendation 26

11.79 The Committee recommends that the Regional Partnerships and Sustainable Regions programs should complement, not compete with state and local government funding programs.

**Senator Michael Forshaw
Chair**

Government Senators' report

Summary of Government Senators' position

The Government members of the Committee are pleased to present their report on the highly successful Regional Partnerships and Sustainable Regions Programs.

Government Senators dissent from most of the conclusions and recommendations of the majority report. While the majority report makes a few valuable points, it is politically biased and sufficient credit is not given to the overwhelmingly positive outcomes of these programs.

As this report demonstrates, a large amount of evidence to the inquiry was ignored in the majority report because it showed the value and merit of the programs and did not fit the Australian Labor Party (ALP) Committee members' pre-determined agenda. This report attempts to redress this imbalance by responding to the findings of the majority report and presenting evidence of projects in each state that actually represent the consistent outcomes of the programs.

Structure of the report

Chapter 1 - Background

Reviews the political controversy which preceded the inquiry and examines the merit and value of the programs as demonstrated through various reviews and audits.

Chapter 2 – ACCs and SRACs

Presents evidence of the excellent job being done by these largely voluntary bodies.

Chapter 3 – Response to majority report case studies

Responds to the unsubstantiated allegations made by Mr Windsor and the other case studies presented in the majority report.

Chapter 4 – State by state showcase of projects

Examines some more representative projects that were largely ignored in the majority report because they did not fit the ALP's pre-determined agenda for the inquiry.

Chapter 5 – Response to majority report conclusions and recommendations

Responds to the majority report's conclusions about the programs, which were based on an examination of six projects out of more than 500 projects.

Chapter 6 – Government members' conclusions and recommendations

Draws conclusions based on an objective assessment of the evidence to the inquiry and makes some recommendations aimed at supporting the work of ACCs and SRACs.

Chapter 1

Background

Terms of reference

1.1 This inquiry was founded upon the most partisan of terms of reference that the Senate has seen for some time. Indeed, it was largely born out of the opposition's desire and need to explain away its defeat at the 2004 federal election, which flowed in part from its failure to take seats in regional Australia. The terms of reference were thus born out of a plan to attack one of the best government programs ever seen in regional and rural Australia—a program that is providing a simply outstanding return on taxpayer's investment. This inquiry was an attempt to denigrate a successful Australian Government public policy initiative that is bringing investment and development to regional areas—and at the same time to endeavour to smear the good names of two senior members of the Federal Parliamentary National Party.

1.2 One of the terms of reference emerged from a scurrilous and baseless claim of electoral bribery made by a mischievous Member of the House of Representatives (himself a disgruntled former member of the Nationals) against the former Deputy Prime Minister and Minister for Transport and Regional Services, and the Deputy Leader of the National Party in the Senate. The facts surrounding these flimsy and contrived claims, based upon third-hand accounts and assumptions, are discussed in Chapter 3 of this report.

1.3 Government members note that several of the terms of reference have been neglected or glossed over in the majority report, presumably for lack of any or sufficient credible negative evidence to impugn or smear either the integrity of the applicant/proponent or the Commonwealth officers charged with administering Regional Partnerships funding.

Conduct of the inquiry

1.4 Notwithstanding a complete lack of direct and credible evidence as to the maladministration of Regional Partnerships funding, the Committee majority report has sought to make findings and reach conclusions blissfully oblivious to the facts and the evidence. In accord with this pre-determined approach, a small number of projects were cherry-picked by ALP members of the Committee with relatively minor administrative and other discrepancies sought to be blown up and magnified beyond any reasonable sense of proportion. As discussed in Chapter 3 of this report, most of the perceived issues associated with these grants only emerged through unforeseeable circumstances such as a storm partially clearing a blocked creek or a railway bridge burning down.

1.5 The Committee's inquiry unfortunately degenerated down into a calculated and sustained attack by some members of the Committee on the good character and

integrity of several of the witnesses who volunteered to give testimony to the Committee or who were involved in the administration of these generally highly successful programs. As further proof of the partisan nature of this inquiry, the Committee referred a matter of privilege to the President, despite there not being a hint of or a scintilla of credible direct evidence supporting a prima facie case. The Committee's claim that misleading evidence was knowingly and falsely given to it does no credit to those laying this charge, a charge which was patently politically motivated and immersed in ambiguities and subjective and partisan interpretation. This matter is further discussed in Chapter 3 of this report.

The claims of politicisation

1.6 The Government Senators note that despite the unfounded and unsupported allegations aired by the Australian Labor Party in Parliament and during the course of this inquiry, the majority report is curiously silent on any substantiation of the claims that the regional programs were used as 'slush funds' during the 2004 federal election or that funding decisions were subject to politicisation. This highlights the fact the Committee received no evidence to back up these claims despite travelling the length and breadth of the nation seeking to find such evidence.

1.7 Indeed, the Committee received evidence that approval rates of Regional Partnerships applications emerging from Labor electorates are the same as the approval rates for projects from coalition electorates.¹ The table showing this incontrovertible evidence is attached to this report.

1.8 The percentage rates of projects approved are consistent, in fact almost identical, between ALP and coalition seats, with projects from ALP seats actually showing a 78% approval rate and coalition seats 76%. This evidence completely refutes any allegations of pork-barrelling in coalition seats throughout Australia, in rural and regional seats in particular, because the success rates are the same whether the application is made through a coalition or an ALP seat.

1.9 The RPP funding approved for the sixteen electorates in the 'provincial' remoteness category puts to rest any claims of politicisation. The eight electorates held by ALP members before the 2004 election received \$7.51 million—*more than double* the \$3.16 million of Regional Partnerships funding received by the eight provincial seats held by coalition members.

1.10 The evidence showing analysis of approved grants by electorate conclusively answers the allegation that there has been any political bias or favouritism in the administration of the Regional Partnerships Program. The consistent project approval rates show that all projects have the same chance of success, whatever the political complexion of the local member. While seats held by Australian Government

1 DOTARS, *Equity of Funding – Regional Partnerships programme*, answer to question on notice, received 11 May 2005.

members received more funding overall, this simply reflects the fact that the Australian Government holds more seats and it had encouraged more of its constituents to put forward projects. In the majority report, the Committee questions why there are a lower number of applications from ALP-held seats. The only question this raises, however, is why ALP members underachieved in encouraging their constituents to apply for grants. The evidence also reflects the fact that even before the inquiry, ALP members attempted to denigrate the program for political purposes, rather than promote it for the benefit of their local community.

Election commitments in Tasmania

1.11 Government members are amazed by the hypocrisy of the majority report's attack on the Australian Government's 2004 election commitments to provide funding to RPP projects in Tasmania. During and before the inquiry, members of the ALP implied that the seat of Bass had been 'bought' by the Australian Government. The evidence categorically refutes these allegations. Election commitments to the south of Tasmania were double those to the north. Funding for the south included \$46 million for the Australian Antarctic Airlink which will operate out of Hobart. Furthermore, the Australian Government's election commitments in Bass totalled \$16.48 million—just over half of the ALP's financially irresponsible election promises, which totalled \$29.35 million. The real situation is that it was the ALP that attempted to buy Bass.

1.12 The Australian Government's election commitments also differed from the ALP's in the quality and sustainability of the projects. Many of the Australian Government's projects were put forward by local government and the Northern Tasmanian regional development body. The projects were strategically chosen to maximise benefits to the community by addressing areas of real need. The following projects are just two sterling examples of this:

- Providing \$600,000 over three years to implement initiatives suggested by the report on economic development in Northern Tasmania; and
- Contributing \$370,000 to the Youngtown Community and Sports Complex to develop a multi-purpose, community, social and recreational complex for a broad range of community members.²

1.13 The majority report also criticises the Australian Government because some of its election commitments were subject to partnership funding by the Tasmanian Government. It is, however, entirely appropriate that state and local governments should contribute to projects that fall under their areas of responsibility.

2 Mr Michael Ferguson MP, Member for Bass, *Submission 28*, pp 3-4.

The programs

1.14 The majority report is dismissive of the benefits of the Regional Partnerships and Sustainable Regions program. ALP members have demeaned and criticised the programs while ignoring the weight of the evidence to the inquiry.

1.15 The Regional Partnerships Program and Sustainable Regions Program have been highly successful in creating jobs and delivering services into Australia's regions. Between 1 July 2003 and 31 December 2004, over 500 Regional Partnerships projects were approved, totalling \$123.3 million in funding. For every \$50,000 Regional Partnerships invests in communities, on average three jobs are generated, rising to four over the longer term. Between 700 and 1,000 new jobs had already been created by 31 December 2004 through the Australian Government's investment in regional communities.³

1.16 The Regional Partnerships Program has also attracted other sources of investment into the regions. For every dollar from the Australian Government towards these projects, approximately \$3 is leveraged from other sources – the private sector and/or state and/or local governments.

1.17 Local governments of all political persuasions have expressed their appreciation for the Regional Partnerships Program and have benefited from it. State Labor governments, which often provide partnership funding for RPP projects, also strongly support the program because of the real benefits it brings to residents of their states. Indeed, DOTARS informed the Committee that the first internal evaluation of the RP Program found that for every \$1 committed to projects by the Australian Government, state governments had provided \$0.93.⁴ These indicators clearly demonstrate the bipartisan, cross-government support for the Regional Partnerships Program.

1.18 By any objective measure, these programs have been a success, have met their target objectives and deserve to be applauded, rather than subjected to an ALP attempt to rewrite the history of its latest election defeat.

Robust policy framework

1.19 Government members of the Committee note that the majority report fails to acknowledge the robust policy framework of the Regional Partnerships Program and Sustainable Regions Program. As DOTARS' submission to the inquiry quite clearly explains, both programs emerged from the 1999 Regional Australia Summit, which involved:

3 *Committee Hansard*, 2 February 2005, pp 48-49.

4 Ms Riggs, answers to questions on notice, received 16 May 2005, p. 3.

...over 280 delegates representing communities, business and government met to develop a national appreciation of the challenges facing regional Australia. The Summit identified the following priority areas of action:

- improving access to essential services in regional areas;
- upgrading physical infrastructure;
- designing more flexible assistance programmes;
- addressing major environmental concerns; and
- empowering communities to drive their own futures because they are in the best position to propose their own plans for dealing with the challenges and opportunities confronting them.⁵

1.20 The Australian Government responded to the Regional Australia Summit with the *Stronger Regions, A Stronger Australia* Statement in August 2001. This Statement demonstrated the Australian Government's strong commitment to regional development and outlined its framework for regional development through the next decade:

Through applying the *Stronger Regions* principles, the Government is working in partnership with other tiers of government, regional communities and the private sector to increase the economic diversity of regional areas. The Government looks to communities themselves to identify and work to realise the potential of their regions.⁶

1.21 Government members agree with the majority report that the processes and procedures governing the Regional Partnerships and Sustainable Regions programs are sound. The detailed evidence from DOTARS shows the checks and balances evident in every step of the process, from the application and assessment stage to the acquittal of a grant.⁷

Rigorous due diligence and contractual arrangements

1.22 The rigorous nature of the due diligence frameworks of both programs was also obvious from the evidence to the inquiry. Under the RP and SR program procedures, there is no scope for maladministration of any aspect of the due diligence or funding processes. The viability of proponents and projects are assessed according to the level of risk and the value of the project, and proponents are clearly advised of the conditions they must meet before they can enter into a funding agreement. This is all before one cent of public money is expended.

1.23 Applications made by private sector proponents must meet even more rigorous assessment criteria. Besides the normal requirement that there must be a

5 DOTARS, *Submission 14*, p. 3.

6 DOTARS, *Submission 14*, p. 3.

7 DOTARS, *Submission 14*. Also see *DOTARS Internal Procedures Manual for Regional Partnerships and Sustainable Regions Internal Procedures Manual*.

demonstrated community benefit, projects must also be competitively neutral. The Government members were interested in the suggestion made by Mr Paul Vukelic, Chair of the South West ACC, that private sector proponents funded by RPP may be able to make a partial repayment of the grant if the project reached a certain level of profitability two to three years after the grant had been made.⁸ We believe this suggestion merits attention.

1.24 The next stage, of entering into a funding agreement or contract, involves linking payments to milestones that must be met and reported against. Proponents are accountable and responsible in accordance with the contract and are subject to normal contractual laws. Even in the examples cited as supposedly problematic by the Committee in the majority report, full due diligence requirements were upheld (as discussed in Chapter 3).

1.25 The Government members note that there has been no evidence of any breaches of the contractual arrangements governing the programs. On the rare occasions proponents experience delays in reaching milestones, DOTARS acts quickly to re-negotiate funding agreements. This strict adherence to the contractual arrangements means that no taxpayer's money has been used for any purpose other than that for which it was intended and no money has been expended without the approval and authorisation of the department.

Audits, reviews and program evaluation

Key Performance Indicators (KPIs)

1.26 The outcomes of the RP program, and the ACCs which play an important role in delivering the program, are routinely assessed against Key Performance Indicators. These indicators are developed between the department and the ACCs and are included as part of the Commonwealth's operational funding contract with the ACCs. The KPIs cover a range of areas including business, community and government liaison, program assistance, whole of government service delivery, community outcomes and corporate governance. Measuring outcomes against these indicators ensures that a solid return on the investment of taxpayers money through these programs is achieved.

1.27 For example, in relation to 'community outcomes' the KPIs measure the impact of RP funding both in terms of job outcomes and community benefits. Some of the KPIs include the number of direct jobs created, the additional services provided to communities and funds invested in community infrastructure.

8 Mr Vukelic, *Committee Hansard*, 18 July 2005, pp 58-59.

Internal and external reviews

1.28 Many rigorous audits and reviews of the programs have been carried out, by both internal and external auditors and evaluation experts. The external audits and reviews are as follows:

- The Auditor General Performance Audit Report No.48 (2001-02) Regional Assistance Programme.
- Senate Finance and Public Administration References Committee Report, A Funding matter under the Dairy Regional Assistance Program (June 2003).
- The Auditor General Performance Audit report No.12 (2003 -04) The Administration of Telecommunications Grants - which looked at the Rural Transaction Centre (RTC) programme.
- Deloitte Touche Tohmatsu, Evaluation of the Commonwealth Regional Assistance Programme (2004).
- Deloitte, Evaluation of Dairy Regional Assistance Programme (2004).

1.29 The internal reviews are as follows:

- KPMG (2004), Findings and Recommendations on the Review of Regional Partnerships Programme (internal delivered in April).
- KPMG (2004), Review of Regional Office Delivery.
- KPMG (2004), Review of the Sustainable Regions Programme Internal Audit (in progress).

1.30 DOTARS' submission provides executive summaries of all of the completed reviews and audits and provides evidence that recommendations from these reviews have been incorporated to further strengthen the programs. There is also evidence of a regular and rigorous internal evaluation process that gathers and analyses data on the performance of the programs against their objectives.⁹

1.31 DOTARS also provided the Committee with an analysis of the programs' administrative processes against the principles of the ANAO's *Better Practice Guide for the Administration of Grants*. This assessment clearly demonstrates the department and the Australian Government's commitment to achieving continuous improvement in the development and administration of its regional programs.¹⁰

1.32 In other words, both programs are already subject to extensive accountability and scrutiny, and both have come through with a clean bill of health, with the department making minor adjustments where required and recommended.

9 DOTARS, *Submission 14*, pp 20-22.

10 DOTARS, *Submission 14*, Attachment J, Responses to Audit and Evaluation Findings DOTARS Regional Programs 2001-2004.

1.33 In the chapters that follow, the Government members offer a number of suggestions for improvement. These suggestions are aimed at further finetuning procedures and administrative practices which were found to be essentially sound.

Chapter 2

The ACCs and SRACs

2.1 The Government Senators fully support the regional funding model adopted by RPP and SRP, particularly the integral role served by local bodies in ensuring successful outcomes for their regions. ACCs and SRACs provide extensive support and assistance to proponents when developing applications and are an invaluable source of local knowledge for the department and the minister. The tireless work of the committed and motivated members of ACCs and SRACs, most of whom are volunteers, ensures that these regional programs deliver genuine, effective outcomes to the grass roots of local communities. We wish to strongly congratulate the ACCs and SRACs for their ongoing efforts in delivering excellent projects to their communities through RPP and SRP.

2.2 The valuable work of the ACCs and SRACs needs encouragement and support. Instead, this inquiry has placed a significant resource burden on ACCs and SRACs, not in order to objectively and systematically assess administrative processes but to fuel pre-determined partisan objectives. The Government Senators wish to acknowledge and thank all the ACCs and SRACs who contributed to the inquiry and responded to the Committee's onerous requests for information. In doing so, these bodies showed their processes and operations to be open, transparent and accountable.

2.3 The Government Senators appreciate the time and effort that was required for the ACCs and SRACs to respond to the Committee's request. We also understand that many of the conversations ACC and SRAC members have with proponents are held in-confidence and divulging these has serious privacy implications. The deliberations of ACCs and SRACs regarding projects are held in-private. The Government Senators appreciate the serious concerns some ACCs and SRACs had about making these deliberations public. ACCs and SRACs work hard to establish and maintain the confidence of their communities and the Committee's intention to make public their deliberations could impact on their relationships with particular proponents and their communities in general.

Area Consultative Committees

2.4 As discussed in the majority report, the governance arrangements for ACCs are rigorous. The rules and guidelines set out in the ACCs' Handbook and Operational Funding Contact ensure that their operations are above board and accountable. In addition, these bodies are incorporated under relevant state and territory legislation and therefore must adhere to all relevant reporting requirements.

2.5 The Government Senators welcome the majority report's acknowledgment that effective ACCs are integral to delivering successful outcomes through RPP. We support the majority report's observation that ACCs need to be adequately resourced to operate effectively in their region. In particular, Government Senators note that

recent increases in petrol prices have created an unexpected increase in the operating costs of ACCs, particularly those covering large geographic areas in remote regions. For example, the Committee took evidence from the chairman and executive officer of the Pilbara ACC, which covers one-sixth of Australia's continental landmass.¹ The Government Senators recommend that ACCs' operating budgets should be adjusted to cater for this unexpected cost increase.

2.6 The Government Senators also support the majority Committee's call for a three year funding cycle for ACCs. We consider that annual funding does not give ACCs the capacity to plan and operate as strategically in their region as a longer-term funding cycle would afford. We therefore recommend that rolling three year budgets be introduced in place of the current annual operational funding contract.

2.7 Government Senators consider that the role and operations of the ACCs can be further strengthened and expanded in two areas not addressed in the recommendations of the majority report: ACC media and marketing and ACC involvement in grant announcements.

2.8 Currently, ACCs' media relations activities are curtailed by restrictions set out in their funding agreement with DOTARS.² ACCs are required to have every media statement cleared by DOTARS, which can cause unworkable delays. Government Senators recommend that the ACCs, as bodies with an important independent role in RPP, be given more freedom in relation to their media activities.

2.9 Throughout the inquiry Committee members had the opportunity to see the high quality marketing material produced by ACCs. Government Senators are concerned at the resource demand placed on ACCs to produce this material. To reduce duplication of cost and effort, Government Senators recommend that template marketing material be developed for only minor adjustment by individual ACCs.

2.10 The Government Senators consider that the valuable contribution of the ACCs to RPP can be further maximised by involving ACCs in funding announcements. ACCs work hard to bring forward meritorious projects for funding under the RPP program. ACCs have a strong relationship with their community, with the proponents they support and with the projects they help to fund. It is logical for these bodies, that work closely with proponents often over an extended period of time, to be involved in funding announcements. With their knowledge of local projects and the circumstances in their local communities, ACCs are well placed to assist in organising appropriate grant announcements. Accordingly, the Government Senators recommend that ACCs be advised of grant approvals in advance, and that they be encouraged to assist with arranging grant announcements and any follow up matters relevant to their local projects.

1 Mr Cameron Simpkins, Executive Officer, Pilbara ACC, *Committee Hansard*, 14 July 2005, p. 97.

2 DOTARS, *Submission 14*, Attachment G, ACC Operational Funding Contract, p. 21.

Sustainable Regions Advisory Committees

2.11 The Sustainable Regions Program provides an innovative locational approach to regional development. As DOTARS described in a submission to the inquiry:

[The SRP] assists these regions to plan for their future, build capacity for strategic and informed decision making at the regional level and contributes to the implementation of significant projects that can make a difference to economic opportunity and quality of life.³

2.12 The Sustainable Regions Advisory Committees have an integral role in ensuring that the local priorities of each region are addressed by the program. As DOTARS explained to the Committee:

Strategic regional priorities for projects to be supported are determined locally, with communities taking the lead in their own development. Guidance is provided by a locally-based advisory committee comprising business, government and community representatives, who are committed to making a difference in their region.⁴

2.13 SRP projects must meet the region's strategic priorities as well as the program criteria, ensuring that the projects delivered by SRP meet the real needs of regional communities. SRAC's work hard to deliver these outcomes, not only by helping to identify and articulate regional priorities, but in bringing forward and assessing applications and providing funding recommendations and advice to the Minister.

2.14 Government Senators support the observations in the majority report regarding the strengths of the Cradle Coast SRAC, its operations and the benefits it has delivered to the Cradle Coast region. We add that these outcomes are in no small measure a result of the dedication of the members of the Cradle Coast Authority and commend Mr Roger Jaensch, Executive Chairman of the Authority and Chairman of the SRAC, for his excellent service in delivering results for the region.

3 DOTARS, *Submission 14*, p. 4.

4 DOTARS, *Submission 14*, p. 5.

Chapter 3

Response to majority report case studies

3.1 A pattern becomes evident upon reading those chapters of the majority report that examine a few projects in detail. The majority report has selected a minority of projects and dismantled them to find fault with the minutiae of the administrative process. These case studies home in on some minor administrative glitches and magnify them in an attempt to undermine these successful Australian Government programs. The majority report degrades and devalues two of the most successful government programs in history.

3.2 The chronologies of events outlined in the majority report's examination of six RPP projects and three SRP projects are generally accurate. However, a political construction is placed on events. ALP members of the Committee alleged that these six, or 1.2% of the total approved projects, somehow represent 'systemic' weaknesses in the Regional Partnerships Program. Clearly, there are no systemic problems. The evidence to this inquiry proved that, even while ALP members were actively seeking negative evidence.

3.3 Government Senators note that none of the projects subjected to case studies in the majority report had community opposition, rather to the contrary all had strong community support. In some instances these projects have also been supported by ALP state governments. Government members further note that nowhere does the majority report state that these particular projects do not meet genuine community need. All of these projects met the relevant criteria and contract terms.

Beaudesert Rail

3.4 Rather than demonstrating, as claimed in the majority report, that the Regional Partnerships program is open to politicisation, the grant to the Beaudesert Heritage Rail instead demonstrates the Australian Government's responsiveness to widespread community support for a project.

3.5 In light of the broad based community support for this project and the monetary support from multiple levels of government, is indeed unfortunate that unpredictable events prevented this project from continuing to deliver a valuable tourist attraction for the region.

3.6 It is pointless to speculate, as the majority report does, about the potential viability of the railway in the absence of those 'mishaps that adversely affected the operation of the railway at vital times', and ill-considered of the Committee to attempt to blame DOTARS or the Australian Government for not foreseeing events such as derailments and grass and railway bridge fires.

A2 Dairy Marketers

3.7 Again, a minister has been baselessly attacked for supporting a struggling sector of the community. All that former Parliamentary Secretary Kelly is guilty of doing is supporting struggling dairy farmers in their desire 'to be able to negotiate for prices and get better returns'.¹

3.8 By their very nature, discretionary programs require the flexibility to expedite consideration of time-critical projects. As the evidence from DOTARS shows, fast-tracking an assessment does not mean altering the due diligence process in any way,² despite intimations to the contrary in the majority report.

3.9 Allegations of maladministration do not stand up in relation to this project. The evidence shows that all appropriate due diligence checks were completed and passed at the project assessment stage. The proponent did not meet the conditions that the Minister placed on the grant, and therefore DOTARS acted appropriately in not entering into a funding agreement. It must be kept in mind that the Regional Partnerships Program procedures operated as they should have and *no public funds were granted* to A2 Dairy Marketers.

Tumbi Creek

3.10 The Tumbi Creek dredging project is an important project which will deliver a range of outcomes, including mitigating flood risk for residents in the local area, improving the environmental state of the creek and restoring a natural recreational asset to its proper condition. While there have been some differences in views about the best method for dredging the creek and the amount of dredging to take place, the need to dredge the creek has been accepted and supported by all levels of government, local, state and federal and has strong support from the local community

3.11 The majority report has attempted to draw conclusions of political collusion and interference in the Tumbi Creek dredging project. The report stresses that there were discussions and email exchanges between the local government and federal member about the project. The government members make no apology for the government's support of worthwhile projects with strong community support. Mr Ticehurst's drive and tenacity in representing his constituents and delivering outcomes to his electorate is commendable. There is nothing untoward about an elected representative working cooperatively with the local government and the community he represents to bring forward projects for funding. Mr Ticehurst is an example of a hardworking member representing the best interests of his community.

3.12 The majority report also attempts to imply that funding for the Tumbi Creek dredging work was expedited due to the 2004 federal election campaign. This is not

1 Mr Strazzeri, *Committee Hansard*, 13 April 2005, p. 9.

2 Dr Dolman, *Committee Hansard*, 14 April 2005, pp 78-79.

the case. During the election campaign the ALP candidate for Dobell, Mr David Mehan, with the support of then ALP Leader Mr Mark Latham announced that Labor, if elected, would fund the dredging work. That this project was both sound and responsive to genuine community need is clearly demonstrated by the cross party support demonstrated for the project.

3.13 The examination of the Tumby Creek dredging project has been characterised by groundless, political debates. For example, Mr Beazley's assertions that members of the local council were involved in a conspiracy with federal members in an attempt to defraud the Commonwealth were baseless. On the 9 February 2005, Mr Beazley moved a motion to censure the Minister for Local Government, Territories and Roads for, among other things:

Conspiring with others to defraud the Commonwealth and specifically directing local Wyong officials who knew the truth to stay silent.³

3.14 Mayor Pavier rejected these claims at the Committee's hearing.

Senator BARNETT—So you are not involved in any conspiracy?

Mayor Pavier—I have not been involved in any conspiracy...⁴

3.15 Similarly, the perception created by Opposition members that storms had cleared the creek mouth and therefore the dredging work was no longer needed were unfounded. In his motion of 9 February 2005, Mr Beazley asserted that '... the mouth of the creek was open and such dredging was no longer required...'.⁵ The Committee received evidence that only 1,000 m³ of the 30,000 m³ of sediment in the creek mouth had been cleared. The dredging project was to remove 15,000 m³.

3.16 It is indeed unfortunate that the delay in the NSW Government issuing the local council with a dredging licence has delayed commencement of this project. NSW Government support has now come through, with the issue of a dredging licence for 5,000m³. As this licence did not reflect the level of work needed by the Council, further discussions have taken place between Council representative and the NSW Department of Lands. Details of a revised dredging offer, for a longer channel on the Council's preferred alignment, are scheduled to be considered by the Council at its meeting on 12 October 2005.⁶

3 The Hon Kim Beazley MP, Leader of the Opposition, *House of Representatives Hansard*, 9 February 2005, p. 52

4 *Committee Hansard*, 24 February 2005, p. 18.

5 The Hon Kim Beazley MP, Leader of the Opposition, *House of Representatives Hansard*, 9 February 2005, p. 52

6 Wyong Shire Council, Media release *Tumby Creek dredging licence offer*, 20 September 2005.

Privilege allegations

3.17 The majority report states that the Committee considered that answers to questions on notice provided by the Wyong Shire Council provided a *prima facie* case that Mayor Pavier provided deliberately false and misleading evidence to the Committee. The Government members strongly reject this assessment. Mayor Pavier provided written advice to the Committee clarifying his understanding of the question put to him and the nature of his answer. Mayor Pavier said:

In that email, advice was given that an announcement would be made at Tumbi Creek.

Neither the extent or details of what was to be announced was divulged to me, but Council obviously required advice that an announcement was to take place so it could plan for a Ministerial visit.

When I was asked by the Senate committee if I was aware of "any earlier decision to approve or a proposed decision to approve funding" then I am still confident the answer I provided – 'no' – is correct.

I regret any misinterpretation of the question or my response.

I trust this clarifies the matter.⁷

3.18 Mayor Pavier also stated in his letter to the Committee:

It has never been nor is it, my intention to mislead a Senate enquiry.⁸

3.19 Given the above statement, there is clearly no basis to conclude that Mayor Pavier provided false or misleading evidence to the Committee, let alone did so *deliberately*.

3.20 The majority report also indicates that Mayor Pavier's oral evidence obstructed the Committee's inquiry. The Government members find this conclusion untenable. Had Committee members felt that issues needed examining further in light of answers provided in questions on notice, various avenues were available for continuing the examination. For example, written questions on notice could have been provided, as was the case with several other witnesses to the inquiry. Alternatively, given that the Committee was still holding public hearings for this inquiry in mid-September, the Committee could have invited the Mayor to attend a further hearing.

Primary Energy

3.21 The majority report's treatment of the case of Primary Energy is highly revealing of its authors' underlying approach and the defects in their argument. The fixation on attacking the RP program has left them blind to benefits of a project of not only regional but also potentially national significance. As with the other case studies,

7 Mayor Pavier, correspondence, 11 August 2005.

8 Mayor Pavier, correspondence, 11 August 2005.

the majority report magnifies supposed shortcomings in the administrative process of the grant but, tellingly, fails to comment directly on the project itself.

3.22 It needs to be remembered that the Australian Government has allocated funding for a highly promising, innovative biorefinery plant in regional Australia. The project promises to inject over \$1 billion into the region over a five year period. The Committee took evidence in private session from the managing director of Primary Energy which revealed further substantial windfalls can be expected once the plant starts production and sales. This puts into perspective the element of risk involved with a grant of \$1.2 million for the Australian Government, as does the point that the cost of the project is over \$100 million.

3.23 The evidence also showed that the company has been successful in attracting an impressive array of financial backers and is approaching financial close. As the legal adviser to Primary Energy, Mr Carmody, told the Committee in evidence that was subsequently published:

Over four years, Matthew [Kelley, the managing director of Primary Energy] has been developing this project. He has brought together a consortium of interested parties and advisers. Some of those parties [will] seek to inject equity at the appropriate time...⁹

3.24 As that was the purpose of the RP funding for the project, the Government Senators believe that Primary Energy is a case study of well-targeted government assistance enabling a capital intensive project to get established in regional Australia.

3.25 As for the supposed flaws in the funding process, the majority report has typically exaggerated or distorted a select number of elements in the case. The evidence presented to the Committee on due diligence was incomplete, not the due diligence process itself. The criticism of ministerial intervention is mistaken. On the one hand, the majority report criticises a supposed administrative delay in processing the application, and on the other criticises a minister for getting the department to fix the situation by expediting its assessment of the project. The majority confuses fast-tracking a worthy project with railroading the matter through due process.

3.26 The argument about the involvement of a ministerial adviser, acting to ensure the department considered all the facts related to the application, is simply ludicrous. With complex projects like Primary Energy that are time-critical, it is crucial that a minister's staff and his department work together to ensure that nothing relevant is missed. Furthermore, the Public Service Commissioner, Ms Briggs, made it clear to the Committee that the adviser's behaviour in this instance was not only appropriate but also in keeping with the contemporary framework that governs working arrangements between ministers' offices and their departments. This, of course, is a topic on which the Opposition is completely out of date.

9 Mr Carmody, *Committee Hansard*, 15 September 2005, p. 4.

3.27 Finally, the comments about the evidence of departmental officers reveal the level to which the Opposition is prepared to stoop to try to get political traction. The two officers in question, Ms Riggs and Dr Dolman, performed admirably throughout an interminable inquiry hearing process. They were required to recall the minutiae of innumerable projects. They were both responsive to at times the unreasonable needs of the Committee majority, while mindful of their obligations as public servants to the minister and Government. Their explanation of an understandable confusion over two letters was convincing. The matter should have ended there. That a minor mistake in evidence, that was promptly corrected in accordance with Senate procedure, was referred to at all is a major blemish on the integrity of the majority report.

Mr Windsor's allegations

3.28 As the majority report states, the Committee was unable to find evidence to support Mr Windsor's claims that an RPP application was not approved due to his involvement. There is also absolutely no evidence to support the allegation that the Hon John Anderson, then Deputy Prime Minister, and Senator Sandy Macdonald offered an inducement to Mr Windsor not to stand at the 2004 federal election.

3.29 As acknowledged in the majority report, both Mr Anderson and Senator Macdonald have provided clear accounts in relation to this allegation, showing that there is no substance or fact to the matter. Mr Windsor was not even present at the meeting at which he purports an inducement took place. Of those witnesses who were actually present at the meeting *none* could link Mr Anderson's or Senator Macdonald's names to an inducement allegation.

3.30 Mr Windsor's allegation was wrong in matters of fact. He alleged that a meeting took place on the 18 May, but there was no meeting on that date. The Government Senators consider that in light of this error, Mr Windsor may also have facts regarding other aspects of the allegation incorrect.

3.31 In the Government Senators view, this allegation should never have been considered in the course of this inquiry. The matter had been addressed and dismissed even before the Senate referred this inquiry to the Committee for examination and report. For example, as noted in the majority report, on 17 November 2004 Mr Anderson made the following statement to the House of Representatives:

...I completely repudiate the member for New England's allegations of improper inducements were offered indirectly by Senator Macdonald and me earlier this year. I would make the first point that there was no meeting on 18 May; I was in Queensland, in Bundaberg, on the evening of the 18th. I have on three or four occasions met Mr Maguire. In total I doubt that I have spent four or five hours with him. But I want to make it very plain that, at those meetings, neither I nor Senator Macdonald gave him any indication or authorisation to suggest to the member for New England...any indication of any nature whatsoever that he might be offered some inducement in return for not running for the seat of New England. I cannot know what representations might have been made at the meeting that apparently took place on 19 May, but I can know that he had no authority whatsoever –

implied, nuanced or whatever – from me or from Senator Macdonald to stand aside in return for some inducement.¹⁰

3.32 On 22 November 2004 the Australian Federal Police, which has the appropriate jurisdiction to address the matter, publicly announced that there was no evidence of an inducement and no evidence that Mr Maguire had conspired with any one else to make an offer to Mr Windsor. The Australian Federal Police stated:

The AFP has finalised its investigation in relation to an allegation of electoral bribery regarding the Member for New England, Mr Tony Windsor MP.

As a result of advice from the Commonwealth Director of Public Prosecutions (CDPP) no charges will be laid in relation to this matter.

The AFP began its investigations after it received a referral from the Australian Electoral Commission (AEC) on 21 September 2004. This referral was based on an allegation initially raised during a radio interview by Mr Windsor.

Following investigations, the AFP sent evidentiary material to the CDPP on 7 October for advice in relation to whether a prima facie case could be substantiated in relation to allegations of an inducement being offered.

Having assessed this material the CDPP has advised that the evidence will not sustain a charge.

The CDPP concluded that "... none of the versions of the conversations related by any of the witnesses can amount to an "offer to give or confer" a benefit. Further there is no evidence in the material of Mr Maguire having conspired with any other person to make an offer to Mr Windsor."

The AFP has assessed the information provided by the CDPP and has finalised its investigations as a result of that assessment.¹¹

3.33 That the Committee decided to accept and examine evidence on this matter reflects the political motivations that directed the course of this inquiry. Even though the allegation had already been addressed and dismissed by the appropriate authority, the Committee continued to countenance the allegation in an attempt to besmirch the standing and integrity of Mr Anderson and Senator Macdonald. The Government Senators consider this conduct to be an inappropriate use of the Senate's Committee system.

3.34 The Government Senators also consider Mr Windsor's actions in maintaining his allegations following the AFP's finding to be inappropriate. The allegations seriously impugn the reputation and integrity of the then Deputy Prime Minister and Senator Macdonald. Despite the AFP's finding, Mr Windsor did not withdraw the allegations or publicly apologise for his assertions.

10 Mr Anderson MP, *House of Representatives Hansard*, 17 November 2004, p. 158.

11 Australian Federal Police, Media Statement *AFP concludes electoral bribery investigation*, 22 November 2004.

3.35 The Government Senators consider that Mr Windsor should publicly withdraw and regret his allegations and should apologise on the public record to both Mr Anderson and Senator Macdonald for his derogatory and defamatory statements.

3.36 Similarly, Mr Windsor should apologise for his 'cash-for-comment' allegations, which were found to be unsubstantiated.

3.37 The Government members would also like to comment on the detour the inquiry took in terms of seeking evidence from Mr Maguire regarding contributions to Mr Windsor's election campaigns, and referring the matter to the Australian Electoral Commission (AEC). Like the allegations themselves, this information was not at all relevant to the inquiry. However, any investigation by the AEC would presumably examine the disclosures made not only by Mr Maguire as a donor but also those required to be made by Mr Windsor as a recipient.

Chapter 4

Outcomes for regional Australia: a showcase of RPP and SRP projects

4.1 As noted previously, the Government Senators of this Committee are concerned that the majority report reflects predetermined, politically motivated conclusions. The partisan nature of this inquiry is demonstrated by the case studies to the report. The majority report has focussed in detail on only six projects, where the ALP members believe they can score some political 'points' by amplifying perceived faults and minor administrative issues. The majority report has bypassed the overwhelming body of evidence relating to the Regional Partnerships and Sustainable Regions programs, that is, the hundreds of successful projects delivering real outcomes to communities all over Australia.

4.2 The Government Senators cannot let this report stand without providing some balance to the evidence presented. Below we canvass just some of the highly successful projects delivered by the Australian Government, in partnership with state and local governments and the community, through the RP and SR programs.¹

New South Wales

4.3 In New South Wales the Campbelltown City Council, through the assistance of a SRP grant will establish a regional cultural precinct adjoining the Bicentennial Art Gallery, including a 2000 capacity amphitheatre, water features and terrace garden. Another good example of the projects delivered through SRP is the Centre for Sustainable Living. This project, developed by the Macarthur Regional Organisation of Councils, will establish a world class educational facility and a model for the promotion of suitable technology and practices for homes, urban precincts and businesses.

4.4 In Holbrook RPP funding will enable the Greater Hume Shire Council to develop Holbrook Park into a major tourism centre by co-locating the visitor centre with the submarine and updating the interpretive centre. Development of the site will create a premier roadside stop, with flow on tourism benefits to the community including for other local attractions, facilities and small businesses.

4.5 At Port Macquarie RPP funding will assist the Port Macquarie Hospital Lodge Association to construct seven, one bedroom motel-style units, a laundry and storeroom that will be used by the families of patients using the radiotherapy facility at the Port Macquarie Base Hospital. On the NSW South Coast, RPP funding will

1 Unless otherwise noted, information about these projects is sourced from DOTARS, Revised RPP tables and Revised SRP tables, received 11 May 2005.

assist the establishment of an Australian Ultrasound Training Centre of excellence in Nowra, to provide broad-based training in sonographic skills.

Victoria

4.6 In Victoria the SRP has provided funding for numerous worthwhile projects. At Lakes Entrance SRP funding is helping the RMIT University scallop hatchery and research facility to investigate reseeding offshore scallop beds and establishment of aquaculture systems for scallops. In East Gippsland SRP funding is enabling a consortium of farmers located on the Red Gum Plains to work with the CSIRO on research and development to produce crops that are adaptable to the variable climate of Gippsland.

4.7 In Ballarat, RPP funding was approved for the 'So you want to build bridges project'. This project is targeted at unemployed youth and older-age men and will address building, construction and metal fabrication skill shortages in the Ballarat region by establishing an engineering and building workshop in a disused shed.

4.8 In Latrobe, RPP funding has been approved to establish an organisation, Green PC Gippsland, who will receive and remodel donated second-hand personal computers for sale on a not for profit basis to identified low income and disadvantaged households in Gippsland.

4.9 The Mitchell Shire Council, with the assistance of RPP funding, is able to replace the bowling green at Kilmore Bowling Club with a synthetic bowling surface, providing a better facility for the Kilmore community. In Rutherglen, the Indigo Shire Council, with the assistance of RPP, will be able to direct electronic marketing, advertising and e-commerce functions for a wide range of Rutherglen regional businesses, particularly wine producers and tourism operators.

4.10 The strengths of the partnerships program are evident in the RP grant for the Regional Women in Business Network project. This project involves one metropolitan and one rural council and combines Australian, State and Local government funding.² In this project RPP funding will assist the Cardinia and Casey Councils to establish a regional women in business network. The network will provide a forum for the attainment of business and professional goals, professional and business development, and the exploration of various networking models both locally and nationally for raising the profile of local businesswomen.

Queensland

4.11 Among the successful RPP projects delivering outcomes to communities in Queensland is an important project focussing on water safety for children. RP funding assists Laurie Lawrence Swimming Enterprises at Currumbin to present the Kids Alive Do the Five national tour targeting three to ten year olds. The show includes

2 South East Development ACC, Minutes and recommendations, received 4 April 2005.

water safety messages which are designed to reduce the number of deaths and long-term injuries due to water misadventure.

4.12 In another example of the strong projects supported by RPP funding, a grant was approved to Self Help Queensland Inc to develop and publish a comprehensive Directory of self help and support groups targeted at primary health care providers for the Greater Brisbane area, as well as the wider Queensland community.

4.13 In Redcliffe RPP funding is supporting a strategic review of tourism accommodation. The approved RP grant is to enable Redcliffe City Council to develop a report analysing accommodation demands, visitor numbers and needs, market supply, a current accommodation audit and future needs analysis. This information will then be used to develop an accommodation strategy for Redcliffe City, which will be used to prioritise planning and funding for accommodation related activity and to attract private sector investment and development.

4.14 In North Queensland RPP funding will assist the Burdekin Community Association to construct a purpose designed building to hold exercise, health and lifestyle education programs, designed to manage and reduce chronic heart disease, diabetes, obesity and arthritis in the Burdekin district.

South Australia

4.15 Among the successful projects in South Australia approved for funding under the SR program is an important project for the cities of Playford and Salisbury. This project, the Adams Creek/Edinburgh Parks flood mitigation and stormwater re-use scheme, will construct an Aquifer Storage and recovery system that will manage flood waters across a major industrial precinct and allow for the reuse of water by the community and by industry, reducing reliance on the River Murray.

4.16 Like the Sustainable Regions Program, the Regional Partnerships Program is delivering important outcomes for communities in South Australia. Like many areas in Australia, South Australia has an ageing population. An RPP grant to the Northern Adelaide Business Enterprise Centre Inc will assess the needs of the region's ageing population and examine the barriers to employment in the region's aged care industry.

4.17 RPP also delivers outcomes for young people in the community. An RPP grant to the City of Playford is to assist with the construction of a 'Rage Cage', an open-air multi-purpose sporting facility that will house a number of ball sports played simultaneously and will include a climbing wall as well as ramps for skateboards and bikes.

Western Australia

4.18 The Committee received evidence on a number of the important projects occurring in the Pilbara region with the support of RPP funding. For example, at a public hearing the Committee heard from Ms Fran Haintz, Manager and Mr Bruce Thomas, Chairman of the Wangka Maya Pilbara Aboriginal Language Centre.

Wangka Maya works with over 30 different aboriginal languages in the Pilbara region, both to preserve a record of languages no longer spoken or endangered and to preserve, strengthen and encourage those languages currently in use. As well as teaching the three main Pilbara languages, Martu, Injibarndi and Nyangamarta, in schools and TAFE Wangka Maya also provides regional interpreters, conducts cultural awareness raising courses and generally promotes the Indigenous people in the region.³ Ms Hainz told the Committee about the community support for Wangka Maya:

Wangka Maya is a strong place. It helps people to remain strong. Language goes hand in hand with culture and the land. Without language and culture, people are not strong and they do not remain strong. That is why we enjoy so much support from Aboriginal people. What we do is truly valued by the people of the region.⁴

4.19 The Centre has outgrown its current office space and with the help of RPP funding is establishing a purpose built language centre in which to base its important work.

4.20 In Bunbury the Committee visited the In Town Centre (also known as the Shoestring Café) and saw first hand the wonderful service provided by Mrs Geraldine Webster and her group of committed volunteers. The Shoestring Café provides meals and a network of support to homeless people and those needing a hand up. RPP funding helped secure and fit out a new lunch centre:

The new kitchen fit-out has enabled us to work with a properly equipped kitchen. We now meet all the health requirements and at long last we actually have a cooker, which we did not have in the old building, so we can provide more varied and healthy meals to the homeless and disadvantaged members of our community.⁵

4.21 Mrs Webster told the Committee about the benefits of the partnership model of RPP:

Above all, I would like to say thank you to the federal government and congratulate them on setting an example by working together with state and local governments, Lotterywest and members of the community to provide a solution to a local problem. It has been a true partnership to prevent an agency for the homeless in fact becoming homeless.⁶

3 The Pilbara ACC, *Submission 35*, p. 4.

4 Ms Fran Haintz, Manager, Wangka Maya Aboriginal Language Centre, *Committee Hansard*, 14 July 2005, p. 84.

5 Mrs Geraldine Webster, Secretary and Volunteer, In Town Centre Inc., *Committee Hansard*, 18 July 2005, pp. 37-38.

6 Mrs Webster, *Committee Hansard*, 18 July 2005, p. 38.

4.22 The Committee visited the Harvey Beef abattoir at Harvey and heard from the human resources manager, trainers and inmates about the exceptional RPP funded project operating there. In a carefully organised and monitored program, selected minimum security prisoners from Karnet prison came in to the abattoir every day to participate in trade certificate training. The Committee heard that the prisoners finished their sentences qualified in specialised trades, with offers of employment at the abattoir earning up to \$80,000 per annum. The benefits of the program were obvious – not only the direct outcomes for inmates on the program and the increased pool of appropriately qualified, job-ready workers, but also the benefits to the general community through reduced recidivism.

Tasmania

4.23 In Tasmania the Committee received evidence about Links Golf Tasmania Pty Ltd's first class golf course at Barnbougle Dunes. The initial construction of the golf links and infrastructure was the result of grants and investment from local government, state government and the private sector. RPP funding was provided to expand the Barnbougle Dunes Golf Links from a golf facility to a public tourism facility by constructing a kitchen, public dining and function centre as well as wilderness accommodation villas. Mr Ramsay, Director, explained that the resulting jobs growth in the local community had exceeded expectations and that there had also been environmental benefits for the site:

If we received the funding for the full-service dining and function centre the breakdown of full-time employees was to be a minimum of 26 in the low season, which is what we are in right now, up to 38 in the high season. We have in excess of 26 right now and we certainly had more than 40 employees pretty much from January through to the end of March and the beginning of April. We delivered very much on employment.

We ended up building more cottages than we had included in the application. Instead of building the 15 that we provided for, we have ended up building 17. Another big factor was the environment. We have recently received a big tick from the Worldwide Fund for Nature that the golf course has delivered a range of considerable environmental benefits around the site, which was a very degraded coastal dune system.⁷

4.24 Casaveen Knitwear in Oatlands provides another example of RPP funding helping to expand an existing business into a tourism enterprise with benefits to the broader community. Casaveen knitwear is made from premium merino wool produced by the McShane family in the midlands of Tasmania. With the help of RPP funding, Casaveen was able to diversify into heritage tourism, with the development of an interpretation centre, tours of the factory and heritage buildings and the opening of a café to showcase Tasmania's fine food and wine.

7 Mr Greg Ramsay, Director, Links Golf Tasmania Pty Ltd, *Committee Hansard*, 30 June 2005, p. 13.

4.25 The Committee received evidence of the impact that the closure of the Simplot vegetable processing factory at Scottsdale had on the local community.⁸ An RPP grant was made to the Dorset Economic Development Group to assist the local community in negotiations for a community support package and to help implement a strategic plan for the region. This funding was important in assisting the community to adjust to the impact of the closure of a major employer in the region.

4.26 Another excellent example of the RP program supporting tourism in Tasmania is the grant to the Northern Midlands Council for its 'Branding Cressy' project. This project helps identify Cressy as the 'gateway to Trout Fishing Paradise' through restoration of the town's streetscape.

4.27 An RPP grant to the Volunteer Ambulance Officers Association of Tasmania provides further evidence of the important projects being funded by RPP in Tasmania. This grant has assisted with the purchase of a mannequin designed specifically as a learning tool for emergency first aid and medical training and will enhance the training of volunteer ambulance officers who attend emergencies in remote localities stretching from Zeehan to Smithton.

4.28 An artificial dive reef, to be created off Maria Island in Tasmania by scuttling the former coastal trade ship the Troy D, is another project only possible with the support of federal funding. In a submission to the inquiry the Tasmanian Orford/Triabunna Region Chamber of Commerce outlined some of the benefits of the dive wreck project, including social, environmental and economic outcomes.⁹ These outcomes include boosting tourism for the region, creating new business and job diversity, extending the marine park, replenishing fish stocks and providing an opportunity for academic research and marine biology education.

Northern Territory and Australian Capital Territory

4.29 In the Northern Territory RPP funding is helping to provide important community services and infrastructure and to expand tourism opportunities. For example, the Tiwi Islands Training and Employment Board Pty Ltd has been funded under RPP for the fit-out of a training centre for vocational training in administration, computing, finance, local government and other allied occupations.

4.30 In Alice Springs RPP funding is helping the Central Australian Regional Development Committee to establish a head office for the Desert Knowledge Business Centre. The important work of this centre will focus on the sustainable future of Australia's inland desert and will support the development of thriving desert knowledge economies in Central Australia.

8 *Committee Hansard*, 30 June 2005, pp. 13-14.

9 Tasmanian Orford/Triabunna Region Chamber of Commerce, *Submission 31*, p. 2.

4.31 The Regional Indigenous Music Community Partnership project in Alice Springs is about increasing access to the music industry for indigenous communities and preserving and showcasing indigenous language and culture. RPP funding to this project will help provide for pre-production workshops and the production of a music CD and music clip for five indigenous communities in the Northern Territory and the production of a worldwide music CD and clip. The project will lead to preservation and an increased appreciation and recognition by mainstream society of indigenous language and culture.

4.32 In the ACT, RPP funding is being used by Hockey ACT to upgrade and expand the National Hockey Centre. This upgrade will enable the Centre to host international major matches and tournaments, including the prestigious Women's Champions Trophy Tournament in November 2005.¹⁰

10 DOTARS website, Regional Partnerships Approved Projects, www.dynamic.dotars.gov.au/regional/approved_grants/grants_regpart.cfm, accessed 20 September 2005.

Chapter 5

Response to majority report conclusions

5.1 While the majority report does make some worthwhile recommendations and findings, it appears that most of the conclusions of the inquiry were made even before the matter was referred to the Committee. The conclusions do not appear to be based on facts, but rather overused and ill-defined concepts such as 'politicisation' and 'lack of transparency'.

5.2 The government members agree with the majority report's finding that the processes and procedures of the RP and SR programs are sound. Views diverge, however, on a number of issues.

SONA Procedures

5.3 The majority report presents exaggerated concerns and problems with the SONA procedures. In fact, the very case studies cited to mount a critique of these procedures, namely the grants to Primary Energy Pty Ltd and the SiMERR National Centre, are excellent examples of the necessity of such procedures to ensure that projects deserving of public funding do not miss out.

5.4 The University of New England's National Centre for Science, Information and Communications Technology, and Mathematics Education for Rural and Regional Australia, for example, has strong partnership elements that meet the outcomes of the RPP. However, this valuable project could not be considered under the normal guidelines because of its multi-region nature.

5.5 The Committee received no evidence of the injudicious or partisan use of the SONA procedures, nor any evidence to suggest they were ever applied inappropriately. Indeed, the fact that it is the *department* and *not* the minister that decides a project should be considered under these procedures places an extra check in the process.

5.6 Due to the lack of evidence to support the pre-determined conclusion that the SONA procedures should go, the ALP members resorted to general comments such as claims that the guidelines are an 'accountability black hole'. If this allegation were true, it would raise the question of why more projects were not funded under the SONA procedures. The very fact of the SONA procedures' limited use refutes this allegation.

5.7 However, Government Senators support exploring avenues to improve the program and would not oppose a review of the SONA procedures, so long as any such review was in line with the principles of accountability and transparency.

Consultation with ACCs

5.8 Government Senators do not support the recommended requirement for all applications to be developed through ACCs. More than adequate procedures exist to obtain ACCs' advice on all relevant applications, and the government does not wish to place an additional and unnecessary burden on the resources of these hardworking local advisory groups at the expense of their other tasks.

5.9 The majority report found no real fault with the existing procedures and no ill-effects apparent in the isolated cases where projects were expedited. A discretionary program, by its very nature, requires flexibility as well as a capacity to give urgent attention to those projects that require it. Implementing such a measure would overburden the ACC network for no apparent gain.

5.10 Government Senators consider that where possible the relevant ACC should be consulted about project applications from their areas. However, at all times the fact that an application meets the program criteria is the most important consideration.

Reporting to Parliament

5.11 Government Senators consider that there is merit in the majority report's suggestion that information about RPP projects be tabled in the Parliament or published in another forum. However, we consider that the level of detail and frequency of the recommended reporting is unnecessary and onerous. Government Senators consider that an annual statement listing both the projects approved and the amount of funding approved is appropriate.

Distribution of grants

5.12 As discussed in the background to this report, the politically neutral administration of the RP program is demonstrated by the evidence of the same approval rate between applications from coalition and other electorates. The program has strong performance requirements for ACCs that relate to promoting the program and seeking applications, but ultimately, it is not the government's responsibility to ensure that numbers of applications emerging from ALP electorates are the same as those originating from other electorates. The evidence is telling in that the ALP holds few seats in regional areas, which are where most of the applications under the RPP program come from.

ACC resources

5.13 As discussed in Chapter 2, ACCs and SRACs are an integral part of the RP and SR programs. The work of these committed, mostly voluntary, bodies is a key element to the outstanding success of these programs in delivering outcomes for local communities. As noted in Chapter 2, Government Senators consider that the valuable work of the ACCs and SRACs needs encouragement and support. We therefore support the majority report's recommendations regarding a review of ACC resources

and training, and the introduction of three-year operational funding contracts for ACCs.

Planning approvals

5.14 The majority report recommends that projects be ineligible for RPP or SRP funding until they have obtained relevant approvals or licences. This recommendation is simply absurd and unworkable. The costs of obtaining necessary licences and approvals can be prohibitive and many proponents require in-principle funding approval before they can afford to obtain necessary planning approvals. It is therefore ridiculous to suggest that in all cases these approvals must be obtained before proponents can even apply for a grant.

Ministerial discretion

5.15 Ministerial discretion is an important element of the RP and SR programs and remains entirely appropriate so long as due processes are followed. The Government Senators note that the approval process has correct procedures in place to ensure that ministers do not make funding decisions on grants for projects located in their own electorates. While these procedures have been adhered to, Government Senators consider reforms may be required to ensure that there is no misunderstanding or public misconception of the procedures in place.

Review of grants-based programs

5.16 Government Senators are astounded by the majority report's conclusion that the efficacy of a grants-based approach to regional development requires review. The Committee has just spent ten months *reviewing* these programs. It has travelled the length and breadth of the country and taken evidence from 99 witnesses. It has seen and heard first hand the outstanding benefits delivered by these programs. In not one case has the Committee received any evidence that RP and SR programs do not have community support. To the contrary, the Committee has hard evidence of the hundreds of projects delivering real regional development outcomes with the support of communities, local, state and federal government.

5.17 The Committee has reviewed the evaluations of the programs and the KPIs. It has the evidence that for every dollar of federal funding invested in these programs, at least another three dollars is invested by project partners. It has the evidence that for every \$50,000 of RPP funding an average of three jobs is generated. These results are outstanding. They are a credit to all those involved with the programs and the projects they support.

5.18 Even by their own yardstick, the majority committee could find only six projects that required detailed examination. It is totally inconsistent with the evidence to suggest that a grants based approach to regional development requires further review. This recommendation is devoid of any evidentiary reasoning. It is a bald reflection of the predetermined, political agenda adopted by the majority committee throughout this inquiry.

Relationship to other programs

5.19 The Government Senators consider that matching funding is entirely appropriate for projects where State or Local governments have responsibility. As long as due processes are followed, which they are, overlap and duplication should not occur.

5.20 Government Senators consider that the majority report's recommendation regarding competition with other funding programs is based on spurious argument and made only for political purposes. The whole point of a partnerships grant model is that funding programs can complement one another. The Committee received numerous examples where this was being achieved. The majority report's recommendation confirms the ALP's approach to this inquiry – undermining the program without providing sensible or constructive recommendations.

Chapter 6

Government members' conclusions and recommendations

6.1 In contrast to the majority report, the Government Senators have made below a number of sensible recommendations. Rather than overburdening the system with administrative detail, some broader responses are appropriate.

Promotion of the programs

6.2 The ALP's politicisation of this inquiry has tarnished the good reputation of these important Australian Government programs, and generated misperceptions about how the programs operate. The inquiry has been used as a forum to make spurious political attacks and unsubstantiated allegations. Government Senators consider that action is required to remedy the politically motivated fall out from this inquiry.

6.3 Government Senators consider it essential that RPP and SRP now be promoted, to rebuild confidence in the programs and to restore the public's faith in the administrative processes. The real benefits of the program should be promoted. The public should be given a true picture of how the programs work, the proper and accountable administrative procedures that are in place, and the exceptional outcomes which are provided to local communities through the programs.

6.4 The KPIs should be promoted publicly. The KPIs demonstrate unequivocally how successful the RP program is in delivering real outcomes to communities, both in terms of the direct jobs created and the partnership funding invested in regional development. These programs are among the most successful government programs in history, and the unsubstantiated attacks generated during this inquiry which have marred the public's perceptions of the program cannot be left unattended.

Recommendation 1

6.5 The Government Senators recommend that the Government promotes the RP and SR programs and educates the public on how the programs work, to restore the public's confidence in these programs following the misperceptions generated by this inquiry.

Recommendation 2

6.6 The Government Senators recommend that the Key Performance Indicators be promoted publicly, to assist in educating the public about the benefits of the programs and the outstanding returns delivered to local communities.

6.7 In Tasmania, less than half of the ACC's notional allocation has been used in the last year, in large part due to denigration of the program by the ALP throughout this inquiry. Government Senators consider there is a need to redouble efforts to

restore the confidence of the Tasmanian community in these programs, so that outcomes can be delivered back to the community.

Streamlined co-funding

6.8 Where a project is seeking partner contributions from other levels of government, currently those funding sources have to be secured before the project will be considered under RPP. Government members therefore recommend that to increase the effectiveness of the programs local, state and federal levels of government simultaneously consider projects that are seeking co-contributions. This would streamline the process.

Recommendation 3

6.9 Government Senators recommend that project applications requiring co-funding be considered simultaneously by the relevant levels of government.

Support to ACCs and SRACs

6.10 As noted in Chapter 5, Government Senators strongly support the work of the ACCs and SRACs and their need for appropriate training and resources. Government Senators therefore support recommendations 9 and 10 of the majority report, regarding a review of ACC resources and training, and the introduction of three-year operational funding contracts for ACCs.

Role of ACCs

6.11 As discussed in Chapter 2, Government Senators consider that the role and operations of the ACCs can be further strengthened and expanded in two areas: ACC media and marketing and ACC involvement in grant announcements.

6.12 Currently, ACCs are required to have every media statement cleared by DOTARS, which can cause unworkable delays. As bodies with an important independent role in RPP, ACC's should be given more freedom in relation to their media activities. Government Senators are also concerned at the duplication of cost and effort currently required to produce ACC marketing material.

Recommendation 4

6.13 Government Senators recommend that restrictions on ACC media activities be lessened.

Recommendation 5

6.14 Government Senators recommend that template marketing material be developed for only minor adjustment by individual ACCs.

6.15 Chapter 2 described the role ACCs should play in grant announcements. It is logical for these bodies, that work closely with proponents often over an extended

period of time, to be involved in funding announcements. ACCs are also well placed to assist in organising appropriate grant announcements in their local region.

Recommendation 6

6.16 The Government Senators recommend that ACCs be advised of grant approvals in advance, and that they be encouraged to assist with arranging grant announcements and any follow up matters relevant to their local projects.

**Senator David Johnston
Deputy Chair**

Senator Guy Barnett

Attachment to Government Members' Report

Equity of Funding - Regional Partnerships programme

Also includes projects funded under the Namoi Valley Structural Adjustment Package
Includes all projects as at Dec 31 2004

Analysis by Remoteness Class / location

Remoteness Class	Party	Electoralates (pre 2004 election)	All applications		Approved		Not-approved		Withdrawn		In Progress		Project approvals (by party and location)	Funding approvals (by party and location)
			projects	\$ (bids)	projects	\$ (approved)	projects	\$ (bids)	projects	\$ (bids)	projects	\$ (bids)		
Inner Metropolitan	ALP	26	42	4,599,334	21	2,168,628	4	569,915	7	1,237,579	10	623,212	84%	79%
	Coalition	17	21	2,383,273	9	1,488,656	5	354,567	5	275,385	2	264,667	64%	81%
	Other	0	0	0	0	0	0	0	0	0	0	0	-	-
Subtotal		43	63	6,982,607	30	3,657,284	9	924,482	12	1,512,964	12	887,879	77%	80%
Outer Metropolitan	ALP	24	54	7,433,041	20	2,381,319	11	1,442,414	11	2,251,943	12	1,283,666	65%	62%
	Coalition	21	37	8,962,970	21	5,374,685	10	2,240,678	1	21,835	5	1,323,410	68%	71%
	Other	1	6	548,537	2	247,940	2	156,664	1	106,322	1	34,641	-	-
Subtotal		46	97	16,944,548	43	8,003,944	23	3,839,756	13	2,380,100	18	2,641,717	65%	68%
Provincial	ALP	8	67	12,342,362	35	7,510,626	6	859,815	12	1,425,600	14	2,123,923	85%	90%
	Coalition	8	44	8,041,471	19	3,162,226	7	2,233,671	9	593,297	9	2,027,767	73%	59%
	Other	0	0	0	0	0	0	0	0	0	0	0	-	-
Subtotal		16	111	20,583,833	54	10,672,852	13	3,093,486	21	2,018,897	23	4,151,690	81%	78%
Rural	ALP	6	46	10,141,788	20	6,465,151	6	734,140	10	2,062,336	10	877,513	77%	90%
	Coalition	36	693	149,392,396	326	55,161,171	95	16,874,203	105	33,719,216	167	40,755,404	77%	77%
	Other	3	54	41,775,718	23	14,608,667	7	958,221	8	4,890,415	16	11,406,930	-	-
Subtotal		45	793	201,309,902	369	76,234,990	108	18,566,564	123	40,671,967	193	53,039,847	77%	80%
Multiple electorate/class	Various	-	5	7,919,771	5	12,195,471	0	0	0	0	0	0	100%	100%
	Various	-	2	14,165,800	2	12,892,400	0	0	0	0	0	0	100%	100%
TOTAL		150	1,071	267,906,461	503	123,656,940	153	26,424,288	169	46,583,928	246	60,721,133	77%	82%

Analysis by electorate - all locations

Electoralates (pre 2004 election)	Party	All applications		Approved		Not-approved		Withdrawn		In Progress		Project approvals (by party)	Funding approvals (by party)
		projects	\$ (bids)	projects	\$ (approved)	projects	\$ (bids)	projects	\$ (bids)	projects	\$ (bids)		
64	ALP	209	34,716,525	96	18,525,724	27	3,606,284	40	6,977,458	46	4,908,314	78%	84%
82	Coalition	795	168,780,110	375	65,186,738	117	21,703,119	120	34,609,733	183	44,371,248	76%	75%
4	Other	60	42,324,255	25	14,856,607	9	1,114,885	9	4,996,737	17	11,441,571	74%	93%
-	Various	7	22,085,571	7	25,087,871	0	0	0	0	0	0	100%	100%
150	TOTAL	1071	267,906,461	503	123,656,940	153	26,424,288	169	46,583,928	246	60,721,133	77%	82%

NOTES

* "All Applications" amount bid column is not equal to the sum of "Approved" amount approved, "Not Approved" amount bid and "In Progress" amount bid. This is because for "Approved" the amount shown is that approved by the Minister. This is often not the same as the bid submitted by the applicant. "All Applications" includes the amount bid for all projects.

* Electorate analysis is based on electorate at time of application.

Appendix 1

List of Submissions

1. Tolga Woodworks
- 1a. Tolga Woodworks
(Supplementary Submission)
2. Connelly Public Relations Group
3. Geelong Area Consultative Committee
4. Melbourne Development Board
5. Ms Helen Tickle
6. South West Area Consultative Committee
7. Hunter Area Consultative Committee
8. Barossa Riverland MidNorth Area Consultative Committee
9. Sunraysia Area Consultative Committee
10. Central Murray Area Consultative Committee
11. New England North West Area Consultative Committee
12. Central Queensland Area Consultative Committee
13. Mr Stephen Hall
14. Department of Transport and Regional Services
15. Mr Tony Windsor MP
- 15a. Mr Tony Windsor MP
(Supplementary Submission)
16. Tamworth Regional Council
17. The Hon Robert Katter MP
18. Mackay Region Area Consultative Committee
19. Confidential

- 19a. Confidential
(Supplementary Submission)
21. Dr Geoffrey Stocker PhD
22. Central Highlands Area Consultative Committee
23. Greater Brisbane Area Consultative Committee
24. Australian Project Development Pty Ltd
25. City of Tea Tree Gully
26. Far North Queensland Area Consultative Committee
27. Mr Peter Andren MP
- 27a. Mr Peter Andren MP
(Supplementary Submission)
28. Mr Michael Ferguson MP
29. Australia's Holiday Coast Area Consultative Committee
30. Tasmanian Employment Advisory Council Inc. Area Consultative Committee
31. Tasmanian Orford/Triabunna Region Chamber of Commerce
32. Mr Peter Botfield
33. North Burnett Regional Economic Development Council Inc.
- 33a. North Burnett Regional Economic Development Council Inc.
(Supplementary Submission)
34. Department of Local Government and Regional Development
Government of Western Australia
35. Pilbara Area Consultative Committee
36. Albury-Wodonga Area Consultative Committee
37. The Hon Paul Lennon MHA, Premier of Tasmania
38. Mr Jon Stanhope MLA, Chief Minister of the ACT
39. Gold Coast City Council
40. Mr Michael Nasser, jointly with Ms Liz Rose, Mr John Palmer, Mr Joe Hill and Mr Len Curtis

-
41. Mr Colin Bell
 42. Mr Trevor Khan
 43. Mr Gregory Maguire
 44. Mr Alan Bragg
 46. Mr Stephen & Mrs Margaret Richards
 47. Ms Helen Taylor
 48. Mr Denis J. McKinley
 - 48a. Mr Denis J. McKinley
(Supplementary Submission)
 49. Ms Doreen Mortimore
 50. Mr Les & Mrs Jenny Tenni
 51. Orana Development & Employment Council
 52. Professor Victor Minichiello and Professor John Pegg
 53. Mr Lindsay Stewart
 54. Goldfields Esperance Area Consultative Committee
 55. Ms Jean Campbell
 - 55a. Ms Jean Campbell
(Supplementary Submission)
 56. Confidential
 57. Confidential
 60. Ms Alicia Cameron, LINC TV

Appendix 2

Tabled Documents

10 February 2005

Department of Transport and Regional Services information
Application and Assessment Process (Regional Partnerships Program)

24 February 2005

Central Coast Area Consultative Committee Inc. information
Quote for treatment and placement of dredge spoil

25 February 2005

Beaudesert Rail background information
Beaudesert Rail Committee meeting minutes
Beaudesert Rail correspondence to Gold Coast and Region Area Consultative Committee
Beaudesert Rail Profit & Loss Statement
Beaudesert Rail Financial Assessment
Mr R. Gillow correspondence to Mr L. McIntosh
Gold Coast and Region Area Consultative Committee - Regional Partnerships Program, Minutes and Recommendations
Beaudesert Shire Railway Supporters Group Inc (Trading as Beaudesert Rail)
- Receiver's minutes of meetings and reports to creditors
- Receiver's correspondence with DOTARS

13 April 2005

A2 Dairy Marketers Pty Ltd
- Liquidator's correspondence and documents
- Liquidator's correspondence and documents (Additional material)

14 April 2005

Mr Michael Nasser

Dimbulah Reticulated Water Supply Action Group

23 June 2005

The Hon Robert Katter MP

- Opening statement
- Slides
- Press clippings

28 June 2005

Opening statement by Professor Victor Minichiello

Address to the Senate inquiry by Professor John Pegg

The National Centre of Science, ICT and Mathematics Education for Rural and Regional Australia (SiMERR) background information

The National Centre of Science, ICT and Mathematics Education for Rural and Regional Australia (SiMERR) - National Survey information

The National Centre of Science, ICT and Mathematics Education for Rural and Regional Australia (SiMERR) - National Survey Progress

UNE Advertising Policy and Media Policy

Media Release by Mr John Cassidy, Chancellor UNE

29 June 2005

Opening statement by Mr Kevin Humphries

New England North West Area Consultative Committee - Internal project assessment

Australian Equine & Livestock Centre - Chronology of events

Australian Equine & Livestock Centre - Feasibility Study

Media file - Northern Daily Leader coverage of the Australian Equine and Livestock Centre

30 June 2005

Mentor Resources of Tasmania pamphlet

Barnbogle Dunes pamphlet

Barnbogle Dunes booklet

ACC Tasmania pamphlets

Cradle Coast Sustainable Regions Investment Plan October 2002

14 July 2005

Opening statement by Mr & Mrs Charles and Irene Van Herk

Wangka Maya Pilbara Aboriginal Language Centre brochures

Pilbara Area Consultative Committee slides

Pilbara Area Consultative Committee information

DOTARS correspondence to Mr Cooper, Shire of East Pilbara

15 July 2005

Kimberley Land Council slides

Kimberley Interpreting Service information

Kimberley Interpreting Service Strategic and Operational Business Plan

Kimberley Area Consultative Committee (KACC) briefing notes

KACC Committee and Staff contact list

18 July 2005

South West Area Consultative Committee (SWACC) slides

South West Region information

Updated list of SWACC board members

SWACC Regional Partnerships Program approved projects

SWACC newsletter

SWACC media clippings

12 August 2005

Department of Transport and Regional Services (DOTARS)

- Regional Partnerships Funding agreement between DOTARS and Primary Energy Pty Ltd
- Regional Partnerships Funding agreement between DOTARS and The Trustee for Van Herk Family Trust
- Members of Sustainable Regions Advisory Committees
- Regional Partnerships Guidelines

Appendix 3

Public Hearings, Witnesses and Site Inspections

Wednesday 2 February 2005 – Canberra, ACT

Department of Transport and Regional Services

Mr Peter Yuile, Deputy Secretary

Ms Leslie Riggs, Acting Deputy Secretary

Mr Bill De Jong, Acting Assistant Secretary, Regional Operations Branch

Mr Steve Pantelidis, Acting Assistant Secretary, Regional Communities Branch

Thursday 3 February 2005 – Canberra, ACT

Mr Tony Windsor MP, Federal Member for New England

Mr Stephen Hall (Private capacity)

Ms Helen Tickle (Private capacity)

Thursday 10 February 2005 – Canberra, ACT

Department of Transport and Regional Services

Mr Peter Yuile, Deputy Secretary

Ms Leslie Riggs, Acting Deputy Secretary

Dr Gary Dolman, Assistant Secretary, Regional Communities Branch

Mr Bill De Jong, Acting Assistant Secretary, Regional Operations Branch

Thursday 24 February 2005 – The Entrance, NSW

Wyong Shire Council

Cr Brenton Pavier, Mayor

Cr Bob Graham, Deputy Mayor

Mr Kerry Yates, General Manager

Mr David Cathers, Director of Engineering Services

Central Coast Area Consultative Committee

Mr Peter Hale, Chair

Central Coast Community Environment Network

Mr John Asquith, Chair

Department of Transport and Regional Services

Dr Gary Dolman, Assistant Secretary, Regional Communities Branch

Friday 25 February 2005 – Brisbane, Qld**Former members of the Beaudesert Railway Committee of Management**

Mr Alan Robert (Private capacity)

Mr Robert Cawley (Private capacity)

Beaudesert Shire Council

Cr Joy Drescher, Mayor

Gold Coast and Region Area Consultative Committee

Mr Dennis Chant, Chair

Mr Brian Gassman, former Chair

Ms Anne Norton-Knight, Executive Officer

Beaudesert Rail

Mr Ron Munn, Chair

Mr Rick Gillow, former auditor

Mr Lachlan McIntosh, former receiver

Department of Transport and Regional Services

Ms Leslie Riggs, Acting Deputy Secretary

Dr Gary Dolman, Assistant Secretary, Regional Communities Branch

Thursday 10 March 2005 – Canberra, ACT**Australian Equine and Livestock Centre**

Mr Gregory Maguire, Chair

Wednesday 13 April 2005 – Cairns, Qld

Ms Lyn O'Connor (Private capacity)

Mr Lindsay Stewart, former Director, A2 Dairy Marketers (Private capacity)

Mr Joe Strazzeri (Private capacity)

Far North Queensland Area Consultative Committee

Mr Robert Blanckensee, Chair

Mr Tomas Vieira, Executive Officer

Atherton Tablelands Sustainable Regions Advisory Committee

Mr Robert Blanckensee, Chair

Mr Michael Lawrence, Executive Officer

Mr Peter McDade, former Chair (Private capacity)

Thursday 14 April 2005 – Cairns, Qld**Tolga Woodworks**

Mr Trevor & Mrs Annette Allwood, Proprietors

Mr Michael Nasser, Manager and Part Owner, Barron Valley Hotel

Cr Len Curtis, (Private capacity)

Ms Liz Rose, Club Manager, Atherton Sub-branch of the Returned and Services League of Australia Sport and Recreation Club Inc.

Mr Robin Fuller, Treasurer, Atherton International Club

Dimbulah Reticulated Water Supply Action Group

Mr Denis McKinley, Spokesperson

Ms Gaye Taylor, Supporter

Mrs Margaret Carroll, Member

Mr Cesar Di Carlo, Supporter

Mr Frank De Iacovo, Spokesperson

Mr Les & Mrs Jenny Tenni (Private capacity)

Dr Geoffrey Stocker (Private capacity)

Department of Transport and Regional Services

Mr Peter Yuile, Deputy Secretary

Dr Gary Dolman, Assistant Secretary, Regional Communities Branch

Mr Bill De Jong, Acting Assistant Secretary, Regional Operations Branch

Thursday 23 June 2005 – Canberra, ACT

The Hon Robert Katter MP, Member for Kennedy

Mr Peter McDade (Private capacity)

Tuesday 28 June 2005 – Armidale, NSW**The University of New England**

Professor Victor Minichiello, Executive Dean, Faculty of Education, Health and Professional Studies

Professor John Pegg, Director, The National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia (SiMERR)

Wednesday 29 June 2005 – Tamworth, NSW**Tamworth Regional Council**

Mr Glenn Inglis, General Manager

Cr James Treloar, Mayor

Mr Peter Botfield (Private capacity)

New England North West ACC

Mr Kevin Humphries, Chair

Ms Rebel Thomson, Executive Officer

Thursday 30 June – Launceston, Tas

Seahorse World Pty Ltd

Mr William Morris, Director

Ms Georgina Wylde, General Manager

Links Golf Tasmania Pty Ltd

Mr Greg Ramsay, Director

Dial Regional Sports Club

Mr Stan Kaine

Mentor Resources Ltd

Mr Bruce Maddock, Chief Executive Officer

Tasmanian Employment Advisory Council ACC

Mr David Rowell, Chair

Ms Sheryl Thomas, Executive Officer

Cradle Coast Authority SRAC

Mr Roger Jaensch, Executive Chair

Ms Karen Hampton, Executive Officer

Waratah-Wynyard Council

Cr Roger Chalk AM, Mayor

Devonport City Council

Cr Peter Hollister, Mayor

Thursday 14 July – Port Hedland, WA

North West Dive Safaris

Mr Richard Edwards, Director (via teleconference)

AquaCarotene Ltd

Mr Donald Smith, Director (via teleconference)

East Pilbara Shire Council

Mr Allen Cooper, Chief Executive Officer (via teleconference)

Ms Lynne Craigie, Shire President

The Cove Caravan Park

Mr Charles Van Herk, Director
Mrs Irene Van Herk, Director/Secretary

Wangka Maya Pilbara Aboriginal Language Centre

Ms Fran Haintz, Manager
Mr Bruce Thomas, Chair

Pilbara Area Consultative Committee

Mr Tony Ford, Chair
Mr Cameron Simpkins, Executive Officer

Friday 15 July – Broome, WA**Kimberley Land Council**

Mr Wayne Bergmann, Executive Director

Kimberley Interpreting Service

Ms Lesley Baxter, Coordinator

Mrs Carol Martin MLA, Member for Kimberley

Indigenous Stock Exchange (via teleconference)

Mr Peter Botsman, Voluntary Secretary

**Kimberley Area Consultative Committee/ Kimberley Sustainable Region
Advisory Committee**

Mr Geoffrey Haerewa, Chair
Mr John Durant, Executive Officer

Monday 18 July – Bunbury, WA**Augusta Community Development Association Inc**

Mr Owen Jones, Chair
Mr Cameron Gilmour, Deputy Chair

Foodbank South West

Mr Ross M Ranson, Chair
Mr Kent Machar, Volunteer Manager

West Coast Electro Fishing Pty Ltd

Mr Raymond Anderson, Director

In Town Centre Inc

Ms Geraldine Webster, Secretary and Volunteer

South West Area Consultative Committee

Mr Paul Vukelic, Chair
Mr Graham Hodgson, Executive Director

Thursday 11 August – Canberra, ACT

Atherton Shire Council (via teleconference)

Mr Jim Chapman, Mayor (Atherton Tablelands Sustainable Region Advisory Committee member)

Eacham Shire Council (via teleconference)

Mr Ray Byrnes, Mayor (ATSRAC member)
Mr Ian Church, Chief Executive Officer

Herberton Shire Council (via teleconference)

Cr Anne Portess, Mayor (ATSRAC member)
Mr Gordon Malcolm, Chief Executive Officer

Central Ranges Natural Gas and Telecommunications Association Incorporated

Ms Margaret Thomas, Chair

Central Ranges Natural Gas Pipeline Pty Ltd

Mr David Adam, Managing Director

Friday 12 August – Canberra, ACT

Department of Transport and Regional Services

Dr Gary Dolman, General Manager, Regional Partnerships and Networks
Ms Karen Gosling, Acting Executive Director, Regional Services Business Division
Ms Leslie Riggs, Former Executive Director, Regional Services

Wednesday 17 August – Canberra, ACT

Australian Public Service Commission

Ms Lynelle Briggs, Australian Public Service Commissioner

Department of Transport and Regional Services

Dr Gary Dolman, General Manager, Regional Partnerships and Networks
Ms Karen Gosling, Acting Executive Director, Regional Services Business Division
Ms Leslie Riggs, Former Executive Director, Regional Services

Thursday 15 September – Canberra, ACT

Mr Matthew Kelley, Director, Primary Energy Pty Ltd
Mr Joseph Carmody, Partner, Baker & McKenzie

Site Inspections

Thursday 24 February 2005 – The Entrance, NSW

Site inspection of Tumbi Creek

Tuesday 28 June 2005 – Armidale, NSW

Site inspection of The National Centre of Science, Information and Communication Technology, and Mathematics Education for Rural and Regional Australia (SiMERR)

Monday 18 July – Bunbury, WA

Site inspections of the Karnet Prison Vocational Integration program at EG Green and Sons Pty Ltd Harvey Beef abattoir and the In Town Centre

Appendix 4

Answers to Questions on Notice

2 February 2005

Department of Transport and Regional Services, received 23 September 2005

3 February 2005

Mr Tony Windsor MP, Federal Member for New England, received
29 March 2005

10 February 2005

Department of Transport and Regional Services, received 10 February 2005

Department of Transport and Regional Services, received 11 May 2005

- Cover letter
- Revised Regional Partnerships Program tables
- Revised Sustainable Regions Program tables
- Further information in response to questions taken on notice

Department of Transport and Regional Services, received 23 September 2005

24 February 2005

Mr Peter Hale, Central Coast Area Consultative Committee, received
28 February 2005

Mr John Asquith, Central Coast Community Environmental Network,
received 28 February 2005

Mr David Cathers, Wyong Shire Council, received 10 March 2005

Department of Transport and Regional Services, received 16 May 2005

Mr David Cathers, Wyong Shire Council, received 4 July 2005

Department of Transport and Regional Services, received 23 September 2005

25 February 2005

Mr Richard Gillow, received 28 February 2005

Mr Greg Day, Beaudesert Shire Council, received 3 March 2005

Ms Anne Norton-Knight, Gold Coast and Region Area Consultative Committee, received 8 March 2005

Department of Transport and Regional Services, received 23 September 2005

10 March 2005

Mr Gregory Maguire, received 5 April 2005

13 April 2005

Mr Peter McDade, received 14 April 2005

Mr Michael Lawrence, Atherton Tablelands Sustainable Regions Advisory Committee, received 10 June 2005

Department of Transport and Regional Services, received 23 June 2005

14 April 2005

Ms Gaye Taylor, received 14 April 2005

Dr Geoffrey Stocker, received 15 April 2005

- Notes
- Hoop Pine Plantation Plant Project Description
- Hoop Pine Plantation Plant Project Funding Agreement
- Atherton Tablelands Sustainable Regions Programme Application Form

Ms Gaye Taylor, received 29 April 2005

Department of Transport and Regional Services, received 12 July 2005

23 June 2005

Mr Peter McDade, received 4 July 2005

28 June 2005

Professor John Pegg, SiMERR, received 28 July 2005

29 June 2005

Mr Michael Dubois, Tamworth Regional Council, received 6 July 2005

Mr Peter Botfield, received 15 July 2005

Mr Kevin Humphries, New England North West Area Consultative Committee, received 15 July 2005

30 June 2005

Ms Sheryl Thomas, Area Consultative Committee Tasmania, received 27 July 2005

14 July 2005

Mr Allen Cooper, East Pilbara Shire Council, received 15 July 2005

Mr Cameron Simpkins, Pilbara Area Consultative Committee, received 18 July 2005

Mr Cameron Simpkins, Pilbara Area Consultative Committee, received 3 August 2005

Mr Donald Smith, AquaCarotene Limited, received 5 August 2005

Mrs Irene Van Herk, The Cove Caravan Park, received 30 August 2005

15 July 2005

Mr Wyn Cook, Kimberley Area Consultative Committee, received 25 July 2005

11 August 2005

Mr Gordon Malcolm, Herberton Shire Council, received 23 August 2005

12 August 2005

Department of Transport and Regional Services, received 12 September 2005

Answer to written questions on notice

Department of Transport and Regional Services, received 23 September 2005

Appendix 5

Additional information authorised for publication

New England North West Area Consultative Committee - Minutes and recommendations - Namoi Valley Structural Adjustment package material relating to Primary Energy Pty Ltd, received 23 June 2005

Mr Stephen Hall, correspondence received 23 June 2005

Department of Transport and Regional Services, correspondence received 12 July 2005

Ms Margaret Thomas, correspondence received 12 July 2005

Mr David Adam, correspondence received 15 July 2005

In Town Centre, survey and graph received 18 July 2005

Food Bank South West, photos received 18 July 2005

Cr Brenton Pavier, Mayor, Wyong Shire Council, correspondence received 11 August 2005

All ACCs and SRACs complied with the Committee's request to supply minutes and recommendations. Some of this information was taken in camera at the request of the ACCs and SRACs listed at the end of this appendix.

Area Consultative Committee Minutes and Recommendations

Adelaide Metropolitan Area Consultative Committee, received 18 February 2005

Australia's Holiday Coast Area Consultative Committee, received 18 February 2005

Barossa Riverland Mid North Area Consultative Committee, received 18 February 2005

Capital Region Employment Council Area Consultative Committee, received 10 March 2005

Capital Region Employment Council Area Consultative Committee – Additional material received 14 April 2005

Central Coast Area Consultative Committee, received 22 February 2005, tabled 24 February 2005

Central Highlands Area Consultative Committee, received 18 February 2005

Central Murray Area Consultative Committee, received 4 April 2005

Far North Queensland Area Consultative Committee, received 1 April 2005

Flinders Region Area Consultative Committee, received 18 February 2005

Gold Coast and Region Area Consultative Committee, received and tabled 25 February 2005

Greater Brisbane Area Consultative Committee, received 18 February 2005

Greater Brisbane Area Consultative Committee – Additional material received 12 April 2005

Greater Green Triangle Area Consultative Committee, received 14 March 2005

Illawarra Area Consultative Committee, received 18 February 2005

Kimberley Area Consultative Committee, received 18 February 2005

Mackay Region Area Consultative Committee, received 3 March 2005

Melbourne Development Board Area Consultative Committee, received 17 February 2005

Melbourne Development Board Area Consultative Committee – Additional material received 6 April 2005

Melbourne East Area Consultative Committee, received 11 July 2005

Melbourne's West Area Consultative Committee, received 11 February 2005

Melbourne's West Area Consultative Committee – Additional material received 6 April 2005

Mid West Gascoyne Area Consultative Committee, received 21 February 2005

Moreton Bay Coast and Country Area Consultative Committee, received 8 March 2005

North East Victoria Area Consultative Committee, received 18 February 2005

North Queensland Area Consultative Committee, received 23 February 2005

Northern Area Consultative Committee, received 9 February 2005

Northern Area Consultative Committee – Additional material received 8 April 2005

Northern Rivers Area Consultative Committee, received 7 March 2005

Orana Development and Employment Council, received 9 February 2005

Outback Area Consultative Committee, received 4 March 2005

Peel Area Consultative Committee, received 9 February 2005

Peel Area Consultative Committee –Additional material received 2 June 2005

Perth Area Consultative Committee, received 14 February 2005

Pilbara Area Consultative Committee, received 17 February 2005

Riverina Area Consultative Committee, received 18 February 2005

Riverina Area Consultative Committee –Additional material received 11 April 2005

Shoalhaven Area Consultative Committee, received 18 February 2005

South Central Area Consultative Committee, received 25 February 2005

South Central Area Consultative Committee –Additional material received 7 April 2005

South East Development Area Consultative Committee, received 14 February 2005

South East Development Area Consultative Committee – Additional material received 4 April 2005

South East SA Area Consultative Committee, received 12 April 2005

South West Area Consultative Committee, received 18 February 2005

Sunraysia Area Consultative Committee, received 18 February 2005

Sunraysia Area Consultative Committee – Additional material received 4 April 2005

Sunshine Coast Area Consultative Committee, received 7 March 2005

Tasmanian Employment Advisory Council Area Consultative Committee, received 17 February 2005

Torres Strait Regional Employment Council Area Consultative Committee, received 11 April 2005

Wheatbelt Area Consultative Committee, received 11 February 2005

Wheatbelt Area Consultative Committee – Additional material received 11 April 2005

Wide Bay Burnett Area Consultative Committee, received 17 February 2005

Sustainable Regions Advisory Committee Minutes and Recommendations

North West and West Coast Sustainable Region Advisory Committee (Cradle Coast SRAC), received 4 March 2005

Kimberley Area Sustainable Region Advisory Committee, received 18 February 2005

Playford-Salisbury Sustainable Region Advisory Committee, received 15 February 2005

Wide Bay Burnett Sustainable Region Advisory Committee, received 9 March 2005

ACC Minutes and Recommendations received in camera

Albury Wodonga Area Consultative Committee, received 24 February 2005

Central Queensland Area Consultative Committee, received 17 February 2005

Central Queensland Area Consultative Committee – Additional material received 19 April 2005

Central Victoria Area Consultative Committee, received 24 February 2005

Central West Area Consultative Committee, received 15 March 2005

Geelong Area Consultative Committee, received 18 February 2005

Gippsland Area Consultative Committee, received 2 March 2005

Gippsland Area Consultative Committee – Additional material, received 18 April 2005

Goldfields Esperance Area Consultative Committee, received 8 February 2005

Great Southern Area Consultative Committee, received 12 February 2005

GROW Employment Council Area Consultative Committee, received 16 February 2005

Hunter Area Consultative Committee, received 18 February 2005

Ipswich & Regional Area Consultative Committee, received 23 February 2005

New England North West Area Consultative Committee, received 6 May 2005

New England North West Area Consultative Committee – Additional material received 23 June 2005

New England North West Area Consultative Committee – Further additional material received 23 June 2005

Northern Territory Area Consultative Committee, received 11 February 2005

Orana Development and Employment Council – Additional material received 6 May 2005

Perth Area Consultative Committee – Additional material received 15 March 2005

South East NSW Area Consultative Committee, received 18 February 2005

Southern Inland Queensland Area Consultative Committee, received 12 April 2005

SRAC Minutes and Recommendations received in camera

Atherton Tablelands Sustainable Region Advisory Committee, received 11 April 2005

Campbelltown-Camden Sustainable Region Advisory Committee, received 6 June 2005

Far North East New South Wales Sustainable Region Advisory Committee, received 2 June 2005

Gippsland Sustainable Region Advisory Committee, received 2 March 2005

Appendix 6

Correspondence relating to the Committee's request to ACCs and SRACs

1. DOTARS weekly email, dated 7 February 2005.
2. DOTARS email to all ACC and SRAC Chairs, dated 17 February 2005.
3. Letter from the Chair of the Finance and Public Administration Committee
Senator Michael Forshaw to Ms Leslie Riggs, dated 22 March 2005.

1. DOTARS weekly email, dated 7 February 2005

Page 1 of 4

Tabled 10 Feb 2005

Riggs Leslie

From: Palmer Suzie
Sent: Monday, 7 February 2005 6:00 PM
Cc: Jenkins Judy
Subject: WEEKLY EMAIL 7 FEBRUARY 2005
Importance: High



Dear Chairs and Executive Officers

Welcome to the DOTARS weekly email. All messages contained in this email are prioritised: For Action, Optional to Action or For Information. Urgent requests only will be sent to you as one off e-mails, for example where the Minister requests your advice within three days.

If you experience any difficulties with these emails or fail to receive attachments where these are indicated, please send an email to Suzie.Palmer@dotars.gov.au

Contents of this email

1. ACC MATTERS

- 1.1* SENATE INQUIRY – COMMITTEE’S REQUEST TO ACCs and SRACs
For Appropriate Action
- 1.2* Australia Day honours for Ron Yuryevich - For Information
- 1.3 CRG - Follow up Action - For Information

2. OTHER INFORMATION

- 2.1* Cultural Diversity Case Study - For Information
- 2.2 Updating Contact Lists - For Action
- 2.3* SEGRA 2004 - Conference Proceedings Order Form - For Information

* Indicates there is an attachment to this item.

1. ACC MATTERS

1.1* SENATE INQUIRY – COMMITTEE’S REQUEST TO ACCs and SRACs - For Appropriate Action

As part of its Inquiry into the Regional Partnerships and Sustainable Regions Programmes, the Senate Finance and Public Administration Committee (the Committee), has sent a letter to all Area Consultative Committees (ACCs) and Sustainable Regions Advisory Committees (SRACs) requesting that they provide the Committee with all minutes and recommendations concerning local Regional Partnerships and Sustainable Regions applications, including relevant documentary records.

DOTARS wishes to provide Committees with the following information to assist ACCs and SRACs decide if they should respond to this request from the Committee.

The Department is working to provide the Senate inquiry with as much of the information requested on project applications as possible to assist the Committee with its inquiries. The Department’s

8/02/2005

position with respect to applications that were not approved or have been withdrawn by applicants, is that these applications should not be subject to the same level of public scrutiny as projects that have received government funding. It is in the interests of these applicants that details of their applications not be made publicly available as this could prejudice their attempts to refine their applications, seek funding under other government programmes or through private sources.

In providing information to the Senate Committee on approved, not approved and withdraw projects, the Department used the following format which can be found at http://www.aph.gov.au/senate/committee/fapa_ctte/reg_partner_prog/submissions/sub14att1.pdf and http://www.aph.gov.au/senate/committee/fapa_ctte/reg_partner_prog/submissions/sub14att2.pdf

Under established conventions accepted by successive Governments, departments are not required to disclose the nature of their advice to Ministers and the Department has taken the view that recommendations (and relevant preparatory work such as assessments and minutes of meetings) made by ACCs and SRACs are an important part of this advice that is not being disclosed. SRACs have a different role to ACCs in that they are established primarily to provide advice to Ministers. Under established conventions, accepted by successive Governments, advice to Ministers is not normally disclosed to Senate Inquiries.

Ultimately, the question of whether an ACC or SRAC provides the requested information to the Senate Committee is one for individual Committees to decide.

In determining if or how they wish to respond to this request for information, each ACC or SRAC should maintain an awareness of their responsibilities and obligations under relevant Commonwealth legislation including the:

Privacy Act (1988) as it relates to the handling of personal information collected by ACCs and SRACs in the performance of their activities, and
Criminal Code Act (1995) and its provisions dealing with fraudulent conduct and false or misleading statements and information.

In addition, ACCs should also have regard to their Constitution, Rules of Incorporation and relevant State or Territory incorporations legislation. This will not apply to SRACs as they are not incorporated bodies.

Where ACCs and SRACs elect to provide information to the Committee, it would be appropriate to seek the consent of individual applicants to disclose details of their applications before publicly releasing this information. This is consistent with the requirement for Australian Government decision makers to consult with third parties about information relevant to them when assessing requests under the Freedom of Information Act (1982), to obtain their comments on whether documents should be released or withheld.

ACCs also have obligations under the ACC Charter, the ACC Handbook and their Operational Funding Contracts with the Commonwealth.

In particular, DOTARS would alert ACCs to clauses in the funding contract relating to record keeping, disclosure of information, protection of personal information and compliance with laws and Commonwealth policies and how these will impact upon each Committee's decision whether to provide information.

DOTARS would also like to remind ACCs of their apolitical status and section 4.4.5 of the Handbook regarding public comment on political and social issues.

The attached extracts of the ACC Handbook and funding contracts are provided to SRACs for their information.

In making a decision on whether to disclose particular information, ACCs and SRACs should also consider and balance the implications providing this information could have on applicants and the

Committee (including its members and staff) within their community.

ACCs and SRACs that elect to provide the Committee with information on funding applications might consider that providing summary information to the Committee would be more useful than meeting records.

Contact: Judy Jenkins on (02) 62747343 or Email: judy.jenkins@dotars.gov.au

1.2* Australia Day honours for Ron Yuryevich - For Information

Congratulations to Ron Yuryevich , Chair of the Goldfields Esperance ACC and Mayor of Kalgoorlie - Boulder on being awarded the Member of the Order of Australia (AM) in the Australia Day honours .

For further details please see Attachment 1.2*

1.3 CRG - Follow up Action - For Information

At the November 2004 CRG Teleconference, an issue was raised re the Rising Incidence of Suicide. We were asked to circulate a copy of the Dept. of Health & Aging's "National Suicide Prevention Strategy". Listed below is the link to that strategy for information:

<http://www.health.gov.au/internet/wcms/publishing.nsf/Content/mentalhealth-sp-nspis-index.htm>

Contact: Kathy Mayes on (02) 62747046 or Email kathy.mayes@dotars.gov.au

2 OTHER INFORMATION

2.1* Cultural Diversity Case Study

This case study outlines a local government project designed to help recently arrived migrants learn about and care for their local environment. Hume City Council entered this project in the *Strength in Diversity* category of the 2004 National Awards for Local Government.

For further information please refer to the Attachment 3.1

Contact: Simone Gauci on (03) 92952208 or Email: simoneg@hume.vic.gov.au

2.2 Updating Contact Lists - For Action

In 2003, Vicki Dickman moved to a different area within the Department. She is now Assistant Secretary for Regional Freight and Security. Could you please remove Vicki from your mailing lists if the matter is an ACC one. The DOTARS' contact for ACCs is now Judy Jenkins or myself.

Contact: Judy Jenkins on (02) 62747343 or Email: judy.jenkins@dotars.gov.au

2.3* SEGRA 2004 - Conference Proceedings Order Form - For Information

Management Solutions (the organisers of the September 2004 Sustainable Economic Growth for Regional Australia (SEGRA) Conference) now have available a CD containing all the presentations from the conference. Please refer attached flyer and order form in Attachment 2.3*.

Contact: Kathy Mayes on (02) 62747046 or Email:kathy.mayes@dotars.gov.au

Regards

Suzie Palmer on behalf of

Gary Dolman
Assistant Secretary
Regional Communities

8/02/2005

Extracts from ACC Operational Funding Contract

9. Records

- 9.1 The ACC shall cause to be kept full and accurate Records of the conduct of ACC Activities including, without limitation, progress against the ACC Business Plan and budget, the receipt and use of Operational Funding and Other Funding (if any), the acquisition of Assets and the creation of Intellectual Property Rights in Activity Material.
- 9.2 The ACC shall implement a records management system that:
- (a) clearly marks and securely stores Commercial-in-Confidence *Regional Partnerships* applications and other confidential material and files;
 - (b) manages the distribution and retrieval of RP applications to ACC Board members (particularly where these are Commercial-in-Confidence);
 - (a) maintains accurate, up-to-date files of all operational documents;
 - (b) maintains secure, separate files for ACC personnel (that contain employment contracts, performance reports and other appropriate material); and
 - (c) appropriately disposes of records when the records have ceased to be of current value.
- 9.3 The ACC shall maintain records of vehicle usage consistent with the requirements of the Australian Taxation Office (ATO).
- 9.4 The ACC shall ensure all electronic records are secure and appropriate back up and archival processes are established and maintained for such records.
- 9.5 Records maintained under the preceding subclause shall be retained by the ACC for a period of no less than seven (7) years after the end of the Funding Period.
- 9.6 The operation of this Clause survives the expiration or earlier termination of this Contract.

15. Disclosure of Information

- 15.1 The ACC acknowledges that the Commonwealth may be required to provide information in relation to Operational Funding or this, as required by the operation of any law, judicial or parliamentary body or governmental agency and accordingly it can give no undertakings to treat any of the ACC's information or this Contract as confidential information.
- 15.2 The ACC shall not, without the prior written approval of the Commonwealth, disclose to any person other than the Commonwealth, any Confidential Information contained in Commonwealth Material or Contract Material. In giving written approval the Commonwealth may impose such terms and conditions as it deems fit.
- 15.3 The ACC shall give the Commonwealth written notice within three days if the ACC receives a request for access to or copies of information or documents forming part of the Confidential Information, Contract Material or Commonwealth Material.
- 15.4 The Commonwealth may at any time require the ACC to give and to arrange for its Members and ACC Personnel engaged in the performance of the ACC's Activities to give written undertakings, in a form required by the Commonwealth, relating to the non-disclosure of such Confidential Information. The ACC shall promptly arrange for all such undertakings to be given.

- 15.5 The obligation on the ACC under this Clause shall not be taken to have been breached where the information referred to is legally required to be disclosed.
- 15.6 This Clause survives the expiration or termination of this Contract.

16. Protection of Personal Information

16.1 The ACC agrees to:

- (a) use Personal Information held or controlled by it for the purposes of this Contract only for the purposes for which it is collected and for fulfilling its obligations under this Contract;
- (b) take all reasonable measures to ensure that Personal Information in the ACC's possession or control in connection with this Contract is protected against loss and unauthorised access, use, modification, or disclosure;
- (c) comply, and ensure that any subcontractors also comply, with the Information Privacy Principles (IPPs) contained in section 14 of the *Privacy Act 1988* and National Privacy Principles (NPPs) 7, 8, and 10 to the extent that the content of those principles apply to the types of activities the ACC and any subcontractors, are undertaking under this Contract, as if the ACC, and any subcontractors, were (in respect to the IPPs) an "agency", or (in respect to NPPs 7, 8 and 10) an "organisation" as defined in the *Privacy Act*;
- (d) notify the Commonwealth in writing of any breach of the IPPs by the ACC or any of its subcontractors;
- (e) cooperate with any reasonable demands or inquiries made by the Commonwealth on the basis of the exercise of the functions of the Privacy Commissioner under the *Privacy Act* including a request from the Commonwealth to comply with a guideline concerning the handling of Personal Information;
- (f) ensure that any person who has an access level which would enable them to obtain access to any Personal Information is made aware of, and undertakes in writing, to observe the IPPs and other obligations referred to in this Clause;
- (g) comply, as far as practicable, with any policy guidelines laid down by the Commonwealth or issued by the Privacy Commissioner from time to time relating to the handling of Personal Information;
- (h) comply with any direction by the Commonwealth to observe any recommendation of the Privacy Commissioner relating to any of the ACC's acts or practices that the Privacy Commissioner considers to be in breach of the obligations in this Clause;
- (i) not transfer Personal Information held in connection with this Contract outside Australia, or allow parties outside Australia to have access to it, without the Commonwealth's prior written approval;
- (j) ensure that any record (as defined in the *Privacy Act*) containing Personal Information held in connection with this Contract is, at the expiration or earlier termination of this Contract, retained by the ACC and dealt with in accordance with the *Privacy Act*; and
- (k) indemnify the Commonwealth for:
 - (i) any loss, liability, or expense suffered or incurred by the Commonwealth arising out of or in connection with a breach of the ACC's obligations under this Clause; or
 - (ii) any misuse of Personal Information by the ACC; or

- (iii) any disclosure by the ACC in breach of an obligation of confidence whether arising under the *Privacy Act* or otherwise.
- 16.2 The ACC shall not use or disclose Personal Information collected under this Contract for direct marketing.
- 16.3 If a person asks either the ACC or the Commonwealth to be informed of the content of provisions of this Contract that are inconsistent with an approved privacy code binding on the ACC or with a NPP, the Party requested shall inform the person in writing of that content.
- 16.4 An act done or practice engaged in by the ACC or a subcontractor for the purposes of meeting (directly or indirectly) an obligation under this Contract:
 - (a) is authorised by this Clause even if the act or practice is inconsistent with a NPP or an approved privacy code that applies to the ACC or the subcontractor; and
 - (b) is subject to the other obligations in this Clause.
- 16.5 The operation of this Clause survives the expiration or earlier termination of this Contract.
- 16.6 For the avoidance of doubt, any reference to an ACC's subcontractor in this Clause is not intended to alter the meaning of "ACC" or "ACC Personnel" as defined in Clause 1.

27. Compliance with Laws and Commonwealth Policies

- 27.1 The ACC shall, in carrying out the obligations under this Contract, comply with the provisions of all relevant statutes, regulations, by-laws and requirements of any Commonwealth, State, Territory or Local Authority, including those listed in the Schedule. The ACC notes that giving false or misleading information is a serious offence under section 137.1 of the *Criminal Code Act 1995* (Cth).
- 27.2 The ACC shall, in carrying out the obligations under this Contract, comply with any Commonwealth policies as notified by the Commonwealth to the ACC in writing, including those listed in the Schedule.
- 27.3 The ACC shall, when using the Commonwealth's premises or facilities, comply with all reasonable directions and procedures relating to occupational health (including the Commonwealth's smoke free work place policy), safety and security in effect at those premises or in regard to those facilities, as notified by the Commonwealth or as might reasonably be inferred from the use to which the premises or facilities are being put.

Extract from ACC Handbook

4.4.5. Public Comment on Political and Social Issues

The Government does not restrict ACC Chairs, members and employees making public comment. However, they must be aware that there is a tension between comments made in a personal capacity and in their capacity as a representative of an ACC. Therefore, ACC Chairs, members and employees should carefully consider the impact of any public comments they make. In particular, ACC Chairs, members and employees should not take any action or make any public comments in their role as a

representative of an ACC that might imply that the ACC prefers or supports the policies of a particular political party.

In this context public comment includes comments made on political and social issues as part of public speaking engagements, radio and television interviews, general correspondence, and in any other circumstances, where it is reasonably foreseeable that the comment will flow to the community at large.

2. DOTARS email to all ACC and SRAC Chairs, dated 17 February 2005

All ACC and SRAC Chairs

Some Area Consultative Committees and Sustainable Regions Advisory Committees have received a further letter from the Senate Finance and Public Administration References Committee concerning the information it has requested in relation to applications for funding under Regional Partnerships or the Sustainable Regions Advisory Committee.

Further to our email advice of 7 February, we would like to bring to your attention the following:

- It is the decision of your committee as to what information it intends to provide to the Senate Committee.
- You should be aware that Parliamentary Committees have broad powers to require the production of information or the appearance of witnesses. Committees have power to issue orders to this effect. At this stage the Committee has only requested that the information be provided. It has not ordered production of the material.
- If you do not intend to fully comply with the Committee's request, that position should be capable of being justified, and should be justified to the Committee, on grounds which the Committee may accept in order to avoid the matter escalating to the point where the Committee orders production.
- Sometimes Committees will accept that material which is advice to the Minister should not be disclosed if its disclosure would be contrary to the public interest. If you intend to rely on this ground, you must be able to explain why the disclosure of the material would be contrary to the public interest - for example, because it would disclose personal information contrary to the Privacy Act or it would breach an obligation of confidence or your duties as directors. You may be aware that some Senate Committee members do not accept the Department's view that ACC advice can be seen as advice to Ministers.
- If you do provide the information, the rules of parliamentary privilege mean that you will not be subject to any penalty or other detriment - for example, if your evidence were considered by a third party to have breached an obligation of confidence or other legal duty.
- As pointed out in the letter from the Committee, you can request that the material be taken 'in camera', that is treated as in-confidence. Again, it is wise to be able to support any such request with the 'public interest' considerations mentioned above.

The Department has also been advised that members of ACCs or SRACs may be asked to be witnesses at Committee hearings, particularly when they are held in regional areas. In considering this request, ACC and SRAC members need to be aware that the Senate Committee has the power to summon witnesses and those witnesses are required to appear and answer questions. However, those witnesses who attend voluntarily by invitation may not be required, at least in the first instance to answer questions.

We draw your attention to the Senate web site that provides the most inclusive information on the powers of a Senate Committee while undertaking an inquiry of this nature. These details are at the following web site address:

<http://www.apf.gov.au/Senate/pubs/odgers/chap16toc.htm>

Attached are further documents which provide guidance on appearance before senate committees and their powers.

Gary Dolman

Assistant Secretary

Regional Communities Branch

**3. Letter from the Chair of the Finance and Public Administration
Committee Senator Michael Forshaw to Ms Leslie Riggs, dated 22 March
2005**



AUSTRALIAN SENATE

FINANCE AND PUBLIC ADMINISTRATION

REFERENCES COMMITTEE

PARLIAMENT HOUSE
CANBERRA ACT 2600
Telephone: + 61 2 6277 3530
Facsimile: + 61 2 6277 5809
Email: fpa.sen@aph.gov.au

19 September 2005

Ms Leslie Riggs
A/g Deputy Secretary
Department of Transport and Regional Services
GPO Box 594
Canberra ACT 2601

cc: Dr Gary Dolman

Dear Ms Riggs

I am writing on the Committee's behalf to raise matters of serious concern in relation to action taken by the Department of Transport and Regional Services regarding the Committee's inquiry into the Regional Partnerships Program.

The Committee has received a copy of advice sent by the department to all ACC and SRAC Chairs on Thursday 17 February, under the signature block of Gary Dolman, Assistant Secretary, Regional Communities Branch (attached). The Committee has several serious objections to the nature and content of this letter which I have set out below.

First, it is extraordinary that the department has assumed the authority to provide guidance on Senate procedure and practice. It is completely inappropriate for the department to advise in this manner on matters beyond its role and function. The Senate, its committees and its own department are the authorities in these areas, and it is their role to provide such information and advice. The department should have been aware that any queries about the inquiry should have been referred to the Committee through the secretariat for a response.

Second, the department has determined to explicitly point out that the Committee has 'only requested that the information be provided', and has not ordered the production of documents. I am concerned that by inference the department has encouraged non-compliance with the Committee's request for information. Any such obstruction to the gathering of evidence for a Senate inquiry is unacceptable.

Third, the letter provides erroneous procedural interpretation. Dr Dolman's advice that ACCs and SRACs may wish to invoke public interest grounds for not disclosing documents to the Committee is misconceived. Under the procedures of the Senate, public interest immunity is not relevant in the case of incorporated bodies. Further, the examples cited, such as breaching the Privacy Act or duties as directors, are not grounds on which public interest claims before the Senate and its committees might rest. As the department well knows, the powers of the Senate and its committees are not affected by limitations in legislation such as the Privacy Act.

Fourth, the Committee is particularly aggravated that the letter purports to present the views of some Committee members. At point four of the letter, the department has made the claim that 'you may be aware that some members do not accept the Departments' view that ACC advice can be seen as advice to Ministers'. Neither the department nor any other body or person is entitled to speak for the Committee or its members. It is totally inappropriate for the department to presume to inform witnesses of the Committee's views on any matter.

I note that this is the second occasion on which the department has issued advice to ACC and SRAC bodies about this inquiry. You should be advised that disseminating incorrect advice about committee powers and procedures constitutes interference in the process of the Committee's inquiry and may be considered contempt of the Senate. I wish to clearly advise that the Committee will not countenance interference in its conduct of this inquiry.

The Committee will be providing a copy of this letter to all ACCs and SRACs.

Yours sincerely

Senator Michael Forshaw
Chair