

Summary and recommendations

Background

1. Following back-to-back coral bleaching events in 2016 and 2017 and Tropical Cyclone Debbie (in March/April 2017), the 2018–19 Budget included \$535.8 million over five years from 2017–18 to accelerate the delivery of activities set out in the Reef 2050 Plan.¹ The relevant budget measure included \$443.3 million for a partnership grant to the Great Barrier Reef Foundation (the foundation), and \$5.2 million to the Department of the Environment and Energy (DoEE or the department) to cover its costs of developing and overseeing the grant to the foundation.

2. Figure 1.1 on page 19 illustrates key events that led to the Budget funding, as well as key steps in the process that led to a grant agreement being signed with the foundation and \$443.3 million being paid to the foundation on 28 June 2018.

Rationale for undertaking the audit

3. An audit of the partnership with the foundation was included in the Australian National Audit Office's (ANAO's) 2018–19 Annual Audit Work Program. The focus of the published topic was on the design of the partnership.

4. This audit is of the decision-making processes for the award of the grant to the foundation. It was undertaken in light of:

- parliamentary and public interest in the processes that led to the decision to offer a \$443.3 million grant to the foundation;
- the size of the grant awarded through a non-competitive process with the full amount paid at the time the grant agreement was signed notwithstanding that the funded activity is to be delivered over six years (to 30 June 2024); and
- requests received in August 2018 from the Senate Environment and Communications References Committee and the Secretary of the Department of the Environment and Energy that an audit of the partnership be undertaken as a matter of priority.

Audit objective, criteria and scope

5. The objective of the audit was to assess whether the award of a \$443.3 million grant to the foundation was informed by appropriate departmental advice and through processes that complied with the grants administration framework.

6. To form a conclusion against the audit objective, the ANAO adopted the following high-level criteria:

- Was appropriate departmental advice provided to ministers to inform the decision to establish a tied partnership fund with the foundation?

1 The Reef 2050 Plan was developed by the Australian and Queensland Governments in consultation with scientists, industry, traditional owners and non-government organisations. It was originally released in March 2015, and then updated in July 2018. It provides an overarching framework for protecting and managing the Great Barrier Reef, including actions, targets, objectives and outcomes under seven broad themes.

- Were comprehensive program guidelines developed that complied with the requirements of the Commonwealth Grants Rules and Guidelines (CGRGs)?
 - Was the decision to award a grant to the foundation informed by written departmental advice that met the content requirements of the CGRGs?
 - Was there appropriate scrutiny of the foundation's proposal to inform departmental advice on whether a grant should be awarded, and the subsequent development of a grant agreement?
7. The scope of the audit included:
- the decision-making processes that led to the decision to create a tied reef fund in 2017–18, with a partner outside the general government sector;
 - the identification of the foundation as this partner;
 - the development and application of program guidelines and a closed grant application process to give effect to the decision to offer the funding opportunity to the foundation; and
 - departmental scrutiny of the funding proposal submitted by the foundation.

Conclusion

8. All decisions in the process through which a \$443.3 million grant was awarded and paid in 2017–18 to the foundation were informed by departmental advice. The department's advice and administrative processes to give effect to Government decisions clearly recognised that funds needed to be paid and accounted for in 2017–18. There were shortcomings in aspects of the department's advice, partly as a result of non-compliance with elements of the grants administration framework.

9. All decisions taken by ministers were informed by written advice prepared by the department. In the compressed timeframe needed to meet the objective of spending the funds in 2017–18, the department identified the foundation as the 'obvious' entity for the Australian Government to seek to enter into a \$443.3 million partnership with. Only one other potential partner (the Queensland Government) was explicitly canvassed by the department in its written advice. Advice to the ANAO from the department was that there had been informal discussions within the department about other potential partners, but there are no records evidencing this consideration. The department also did not explore opportunities to introduce some competition into the grant giving process (the grants framework seeks to encourage competitive, merit-based selection processes), with the department advising the ANAO it considered that it did not have time to do this.

10. Program guidelines were developed and published. The CGRGs require that program guidelines include clear and specific objectives for the grant funding. They also set out the importance of assessment criteria being included in program guidelines. For non-competitive grants, assessment criteria provide a transparent means of assessing whether the particular proposal under consideration is of a satisfactory standard that approving a grant would represent value for money. When analysed by the ANAO against the CGRGs, there were two key shortcomings identified with the program guidelines:

- the level of detail provided in relation to the desired program outcomes. Applying the proportionality principle set out in the CGRGs, given the significant quantum of funding involved there would have been benefits in the guidelines setting out some clear targets for what was expected to be achieved (such as how much funding the Australian Government expected to be leveraged from the private sector using the grant funding); and
- clear assessment criteria were not included. The approach taken in the guidelines for this \$443.3 million partnership grant did not enable an appropriate assessment of whether a partnership proposal represented value for money. The reasons later given by the department (in its advice to the Minister) for concluding that the proposal represented value for money differ in important respects from the matters the program guidelines required that the proposal address.

11. Detailed and clear written departmental advice that met the content requirements of the CGRGs was provided to the Minister for the Environment and Energy (the Minister). The Minister was advised that the foundation's proposal fully met the criteria in the program guidelines but those guidelines had not included clear assessment criteria. Instead, the department cited six reasons that supported its conclusion that the foundation's proposal represented value with money and a proper use of Commonwealth resources. Not all of the reasons cited by the department can be adequately traced back to the program guidelines.

12. The department assisted the foundation to develop its funding proposal, in parallel with the development of the program guidelines and the evaluation of that proposal. To address risks to the objectivity of the evaluation, a senior level review of the evaluation was undertaken by the department's internal Reef Project Board, the members of which had not been directly involved in the co-development of the foundation's proposal.

13. There was insufficient scrutiny of the foundation's proposal in three key areas examined by the ANAO, being the:

- capacity and capability of the foundation's delivery partners to scale-up their activities;
- foundation's past fundraising performance; and
- total administration costs of the partnership model (the department focused on the foundation's costs, with no evaluation attention given to the administration costs of the foundation's delivery partners).

Supporting findings

Decision to partner with the foundation

14. Advice provided to ministers in 2017–18 on additional funding for reef protection activities reflected comprehensive policy development work that had already been undertaken by the department, including in relation to the establishment of the Reef Trust. The result of this was the Government deciding that significant Reef funding should be provided in 2017–18 to a private sector partner.

15. The department provided advice to Government on a partner outside the general government sector in a timeframe consistent with the funds being paid in full in 2017–18. The

records did not evidence that, in the time that was available (11 business days), there had been wide consideration of possible partners. Advice from the department to the ANAO was that there had been informal discussions between departmental executives on alternative delivery partners before deciding that the foundation was the best option.

16. Opportunities to introduce some competition into the grant giving process were not explored and reasons for not employing a competitive, merit-based selection process to identify the partner were not documented.

17. Advice from the department addressed the benefits and risks involved in paying the \$443.3 million grant in full to the foundation in 2017–18 for the delivery of activities over the following six years. The financial cost to the Australian Government of paying the funds in advance of need was not estimated or brought to the Government's attention.

Program guidelines

18. Program guidelines were developed by the department, approved by the Minister for the Environment and Energy (the Minister) and published on the department's website.

19. The objectives and desired outcomes of the partnership were outlined in the guidelines. The desired outcomes were broad and did not include targets or other performance measures.

20. The guidelines outlined key program governance arrangements and clearly identified that the foundation had been selected as the only candidate to submit a funding proposal. They also identified the process by which the Minister would make a final decision on the award of grant funding to the foundation.

21. Relevant and appropriate eligibility requirements were established. The guidelines did not include clear assessment criteria to be applied in evaluating whether the award of a grant to the foundation would represent value for money and proper use of Commonwealth resources.

Decision to approve grant funding

22. The department provided the Minister with a clear funding recommendation. The department recommended that the Minister accept the risks and its risk management plan detailed within the advice, and approve expenditure of \$443.3 million as a one-off, ad hoc grant to the foundation. The Minister recorded his acceptance of the department's advice.

23. The written grant funding approval briefing provided to the Minister stated that the foundation's proposal fully met the criteria included in the program guidelines. An attachment to the briefing set out that the department had concluded that the foundation satisfied the published eligibility criteria. The briefing to the Minister identified six reasons why the department concluded the proposal from the foundation represented value for money and was a proper use of Commonwealth resources. The matters referenced by the department were not drawn directly from the program guidelines, as those guidelines had not included clear assessment criteria.

24. Departmental advice to the Minister clearly stated that the award of the grant to the foundation would provide value for money and was a proper use of Commonwealth resources. The department informed the Minister of six reasons why the department reached this conclusion.

Scrutiny of the foundation's proposal

25. As it had done with previous ad hoc grants from the Reef Trust to various entities, the department assisted the foundation to develop the grant funding proposal. The risk that the department's involvement in the development of the funding proposal presented to an objective evaluation of that proposal was identified in the department's risk assessment and management plan for the grant. The key risk management strategy adopted involved having the department's internal Reef Project Board review and endorse the evaluation work undertaken by the Reef Branch (staff from this branch had provided the assistance to the foundation). This strategy did not fully address the risk that the department's involvement in the development of the funding proposal presented to an objective evaluation of that proposal, and conflict of interest risks were not adequately addressed.

26. The department applied adequate scrutiny to factors relevant to the foundation's ability to scale-up its governance structures and resourcing levels. Insufficient scrutiny was applied in the evaluation of the grant funding proposal as to whether the delivery partners (including subcontractors) on which the foundation relies will be able to scale up their capacity and capability. The department has advised the ANAO that the risks associated with subcontractors will be managed through the grant agreement and across the grant lifecycle by the foundation.

27. The department's assessment applied inadequate scrutiny to the foundation's past performance and future plans to attract private and philanthropic investment. Its written assessment repeated statements made by the foundation in its proposal. The department did not seek to analyse the statements in the proposal against the foundation's financial statements (the two most recent of which had been included with the funding proposal). Overall, insufficient information was obtained and analysed to assess past performance and future plans.

28. The grant agreement does not include specific co-investment targets. Instead, the agreement requires the development of a co-financing strategy which, in combination with annual work plans (the first of which is due by 30 June 2019), is expected to set out how the foundation will use the grant to raise contributions from other sectors. The foundation is required to consult on those plans, but the department does not have approval rights over the plans. The co-financing strategy provided to the department in September 2018 includes targets totalling \$300 million to \$400 million over the next six years. The targets may be adjusted as the foundation has not yet tested the feasibility of achieving them.

29. Total administration costs of the foundation and its delivery partners could be up to \$86.41 million.² The department applied insufficient scrutiny to the likely administration costs of the partnership. In particular, the assessment work and resulting advice to the Minister focused on the foundation's administration costs (capped in the grant agreement at \$44.33 million), notwithstanding that it was evident that the foundation would be relying heavily on subcontractors for program delivery. The grant agreement seeks to cap the administrative costs of subcontractors at a further \$42.08 million.

2 This is in addition to the \$5.2 million made available to the department to cover its costs of developing and oversighting the agreement with the foundation. It also does not include the costs of implementing the monitoring and evaluation plan the foundation is required to develop (the costs of developing the plan are included in the cap).

Recommendations

Recommendation no.1
Paragraph 3.33 The Department of the Environment and Energy develop overarching Reef Trust proposal guidelines to improve the transparency of, and accessibility to, Reef Trust funding.

Department of the Environment and Energy response: *Noted*

Recommendation no.2
Paragraph 3.21 The Department of the Environment and Energy include performance targets in program guidelines for Reef Trust grants to assist it to decide whether funding proposals represent value for money having regard to the quantum of funding that is being sought.

Department of the Environment and Energy response: *Noted*

Recommendation no.3
Paragraph 3.44 The Department of the Environment and Energy include clear assessment criteria in program guidelines for any grant proposals that are being considered through non-competitive processes.

Department of the Environment and Energy response: *Noted*

Recommendation no.4
Paragraph 5.12 The Department of the Environment and Energy document a probity framework to manage the risks associated with it assisting potential grant recipients develop their funding proposals/applications.

Department of the Environment and Energy response: *Agreed*

Recommendation no.5
Paragraph 5.27 The Department of the Environment and Energy obtain assurance over the achievement of value for money in the foundation's use of delivery partners by requesting the foundation benchmark prices being offered against rates charged prior to the announcement of the \$443.3 million in grant funding. This benchmarking will be particularly important in circumstances where open competition has not been employed by the foundation when selecting delivery partners.

Department of the Environment and Energy response: *Agreed*

Recommendation no.6
Paragraph 5.71 The Department of the Environment and Energy develop strategies that allow it to be assured about the rigour of the foundation's subcontracting processes.

Department of the Environment and Energy response: *Agreed*

Summary of entity response

30. The proposed audit report was provided to the Department of the Environment and Energy, which provided a summary response that is set out below. The full department response is reproduced at Appendix 1.

The Department welcomes the Auditor-General's findings that it provided detailed and clear advice to the Minister on the awarding of the \$443.3 million grant to the Great Barrier Reef

Foundation, and that the Partnership was informed by comprehensive policy development work spanning several years.

The Department agrees with the report's findings that relate to process improvements, such as more detailed record-keeping, the preparation of a probity plan and formally documenting declarations of interest. The six recommendations of the report all relate to processes that are either already established in the Department or are now being implemented as lessons learned.

Findings in the report relating to the Department's scrutiny of the proposal and value-for-money assessment, the use of assessment criteria, and the level of detail on outcomes and performance targets are incorrect or based on an incomplete assessment of the evidence. Specifically:

- The Department's advice and processes demonstrated compliance with the Commonwealth's grants administration framework.^a Given the available timeframes, and consistent with Cabinet's decisions, the approach taken to establish the partnership was sensible and thorough. The Department's conclusion that the proposal represented value-for-money for public resources was reasonable, and based on a clear understanding of the objectives and desired outcomes the Government was seeking from the grant.
- The grant guidelines did include 'assessment criteria', but we accept that they were not clearly labelled.^b The absence of the heading 'assessment criteria' did not affect the rigor of the Department's evaluation, which included an assessment of the Foundation's proposal against each of the criteria in the guidelines.^c The Department's advice to the Minister included the evaluation against the assessment criteria in full, as well as other matters the Department considered were relevant to the value-for-money assessment.
- Program outcomes and performance targets were appropriately specified in the grant guidelines, in line with the outcomes of the Reef 2050 Plan.^d The grant agreement requires the Foundation to develop more detailed performance measures and implementation plans within the first 12 months of the grant being established, and to implement a rolling design, reporting and evaluation process to ensure that performance targets are further detailed, refined and reported against over the six year life of the Partnership.

Keeping in mind the outcomes that we all want to achieve for Australia, this grant is well targeted to improve the health of the Great Barrier Reef and to leverage additional funding to further boost outcomes. Already, the Foundation has successfully delivered early milestones and established an ambitious fund raising target of \$300-400 million. Further, the Partnership serves as an innovative model that could be adopted to address other policy priorities for Australia.

The Department welcomes the ANAO's insights which will assist in the ongoing administration of this Partnership grant.

ANAO comments on DoEE's summary response

a: Paragraphs 4.12 to 4.14 sets out the ANAO's analysis of the department's advice on whether the proposal represented value for money. Paragraphs 3.33 to 3.42 sets out the ANAO's analysis of the evidence concerning whether the program guidelines included assessment criteria on which to base an assessment of the proposal's value for money.

b: Paragraphs 3.33 to 3.42 examines whether the program guidelines included clear assessment criteria. This analysis was informed by ANAO analysis of: all departmental records of the development of the guidelines; matters raised by the Department of Finance in relation to the content of the guidelines and DoEE's response to the Department of Finance; the content of the

guidelines against the reasons the department recorded for concluding that the proposal from the foundation represented value for money; the department's template grant program guidelines; and the approach taken by the department for other non-competitive Reef Trust grants.

c: In terms of the rigour of the department's assessment: paragraphs 5.21 to 5.25 outlines that the department did not consider whether delivery partners, on which the foundation relies, could be expected to be able to scale up their capacity and capability; paragraphs 5.30 to 5.44 set out that inadequate scrutiny was applied by the department to the foundation's past performance and future plans to attract private and philanthropic investment; and paragraphs 5.65 to 5.69 identifies that the department's evaluation did not address subcontractor administrative costs (which may be as high as \$42.08 million).

d: Paragraphs 3.12 to 3.19 sets out the ANAO's analysis that the outcomes were broad and did not include targets or other performance measures. In particular, paragraph 3.19 identifies that fundraising was not specifically addressed in the guidelines as either an objective of the partnership or an output to be delivered notwithstanding the importance of the foundation's past and planned fundraising efforts to the decision to partner with that entity.

31. An extract of the proposed audit report was provided to the Great Barrier Reef Foundation. Its response is reproduced at Appendix 2.

Key messages from this audit for all Australian Government entities

32. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Commonwealth entities.

Governance and risk management

- Clearly identifying the avenue and process through which proponents can submit funding proposals for consideration can encourage and assist other sectors to seek to partner with the Australian Government. A transparent and fair approach also helps to manage probity risks.
- In appropriate circumstances, working with project proponents on the design and development of funding proposals can add value. It is important that the evaluation of the finalised proposal be conducted objectively. This is aided by having a separation between those conducting the evaluation of the proposal and those that were involved with its design and development.

Policy/program design

- Drawing from prior policy development work and research can assist departments to be agile when responding to requests from ministers for an innovative approach.

Grants

- The Australian Government's grants administration framework is principles based. Entities have flexibility to apply the principles in a fit for purpose way that is proportionate to the grant program's scale, nature, complexity and risks. Where the grant arrangement is less developed, such as in a partnership-type arrangement and/or where further development of the detail in the proposal will occur after award of the grant, then more emphasis would be

expected to be placed on the capability and experience of the grant beneficiary as a partner to deliver the agreed outcomes.

Records management

- When decisions are taken to depart from departmental policies and proven practices, it is important that the reasons for any departures be recorded, including in advice to decision-makers.