



Australian Government

Department of Infrastructure, Transport,
Regional Development and Communications

To: The Hon Alan Tudge MP (for noting)

cc: The Hon Michael McCormack MP

cc: The Hon Paul Fletcher MP

cc: Mr Simon Atkinson, Secretary

ANAO Audit "Leppington Triangle" Purchase 2018

Action required by: Monday 21 September 2020 – as the report will be released from embargo and tabled in Parliament

Reason: ANAO Tabling Audit Report

Recommendations:

1. That you note that the ANAO have advised they will table the Audit 'Purchase of Leppington Triangle' on Monday 21 September 2020.

Noted / Please Discuss

2. That you note the department has agreed the recommendations of the report, and is reviewing the processes identified by the ANAO as being inadequate to ensure the findings are addressed.

Noted / Please Discuss

3. That you note the draft talking points.

Noted / Please Discuss

The Hon Alan Tudge MP

Date: 21-9-20

Comments:

I would like a full briefing once the department has investigated the

Key Points:

clear in the report. Thanks

1. The ANAO has undertaken an audit on the Purchase of the "Leppington Triangle" land for the future development of the Western Sydney International (Nancy-Bird Walton) Airport (WSIA).
2. This audit relates to the acquisition in July 2018 of the final piece of land required to fully develop WSIA.

3. The audit has identified three recommendations.
 1. The Department of Infrastructure, Transport, Regional Development and Communications prepare comprehensive and balanced written analysis on the benefits, costs and risks of proposals to spend public money.
 2. The Department of Infrastructure, Transport, Regional Development and Communications put in place meeting and communication protocols for when staff engage directly with landowners, developers or similar parties with heightened probity risks. The protocols should: include guidelines regarding suitable venues, require the presence of at least two departmental representatives; and require properly recorded minutes of meetings and conversations;
 3. The Department of Infrastructure, Transport, Regional Development and Communications develop policies and procedures to govern its approach to obtaining purchase valuations.
4. The department has agreed all recommendations, noting that in agreeing the department confirmed to the ANAO that existing frameworks and guidance around expenditure of public money are already in place, that protocols for meeting with stakeholders are in place and that work would be undertaken with the Department of Finance to develop specific guidance materials on obtaining purchase valuations.
5. In the conduct of the audit the ANAO has identified some actions undertaken by the department and described them as being unethical.
6. The audit expressly identifies what the ANAO describe as unethical behaviour around the probity of two SES officers. The department is undertaking management initiated action to investigate these matters.
7. As the investigations are underway it would be inappropriate to comment further on them.
8. The Department will be overseeing the implementation of the recommendations through its Audit and Risk Committee. This Committee, which meets quarterly, will ensure the implementation of the audit report recommendations.
9. The department provided feedback to the ANAO on the draft report and our response has been provided in full.

Name: David Hallinan
Position: Deputy Secretary
Division: Infrastructure and Transport Group
Ph: 02 6274 7302

Contact Officer: Kerryn Vine-Camp
Section: Major Transport and
Infrastructure Projects
Ph: 02 6274 7664

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Date: 17 September 2020

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Attachments:

- A: Draft Talking Points
- B: Departmental response

Attachment A

Key Messages – ANAO Audit report

- I am aware that today the ANAO has tabled an Audit report into the Department's acquisition, in 2018, of the final piece of land required for the full development of the Western Sydney International (Nancy-Bird Walton) Airport.
- There is no question of Ministerial involvement in this matter. It goes to the administrative actions of the Department, more than two years ago.
- The Department is taking the findings of the audit seriously and is taking appropriate steps to ensure the issues identified are addressed.
- Any further questions on the detail of the audit are a matter for the Department.

If asked about investigations into staffing issues

- The department is investigating the claims in the audit report.
- As these investigations are underway it would be inappropriate to comment further on them.

Key Messages - Western Sydney International (Nancy-Bird Walton) Airport

- The Australian Government is committed to delivering a world-class airport for Western Sydney. From the day it opens, it will be a full-service domestic and international airport with quality road and rail links.
- Construction on Western Sydney International (Nancy-Bird Walton) Airport began in September 2018 and the airport is on track to open in 2026.
- Key milestones include:
 - The finalisation of Early Earthworks associated with the Badgerys Creek Road realignment and the official commencement of Bulk (Major) Earthworks, marked by a media event on 11 March 2020, attended by Deputy Prime Minister and Minister for Infrastructure and Regional Development, the Hon Michael McCormack MP and NSW Minister for Western Sydney, the Hon Stuart Ayres MP.
 - The awarding of the Master Architect and Engineer contracts. Procurement processes for Package 1C (Airside Civil and Pavements), Main Works Package 2 (Terminal and Specialty Works), Main Works Package 3 (Landside Civil and Building Works) and Baggage Handling are all progressing to schedule.
 - The opening of the Experience Centre in September 2019. The Experience Centre had welcomed over 6,000 visitors up until its temporary closure on 16 March 2020 as a result of COVID-19 to protect the health of team members and visitors.
- The airport will provide vital aviation capacity, boost the economy of Western Sydney and bust congestion by providing jobs closer to home for locals.
- Western Sydney Airport has set employment targets for local workers to make up at least 30 per cent of the workforce during construction and 50 per cent once the airport is operational. During construction of the airport, Indigenous workers will make up at least

2.4 per cent of the total workforce and a minimum of 3 per cent of all contracts will be with Indigenous firms. It is currently exceeding its workforce targets.

- The airport will support over 11,000 direct and indirect jobs during the construction period and almost 28,000 full-time jobs within five years of opening. Jobs in construction, transport and logistics, retail, hospitality and professional services will be available closer to where people live.
- At full capacity, the airport is expected to generate \$5.8 billion of additional value to the Australian economy by 2063 when it is at full capacity. Its benefit-cost ratio is over 1.8 (i.e. over \$1.80 returned for every \$1 invested).

Attachment B

Department of Infrastructure, Transport, Regional Development and Communications response to proposed audit report on the Purchase of the “Leppington Triangle” land for the future development of Western Sydney Airport.

Department summary response

The Department of Infrastructure, Transport, Regional Development and Communications (the Department) notes the ANAO report and agrees with the recommendations.

The Department is concerned by the findings of the report, and is taking actions to address any shortcomings in the processes and decision making arrangements identified in relation to the Leppington Triangle acquisition.

The Department has a long track record of operating consistent with expected standards of integrity and ethics. In light of the allegation of individual breaches of integrity, the matters raised by the ANAO in the report are being investigated to ensure all such matters are fully understood and appropriate action can be taken.

The Department has established an independent review of the transaction arrangements to ensure the findings of the audit are addressed. The Department has also commenced management reviews into matters of staff conduct identified by the ANAO, and will ensure the concerns raised are specifically addressed.

An external probity advisor will be appointed to support ongoing functions related to major projects and land acquisitions, and will assist with the development of guidance materials on obtaining purchase valuations in consultation with the Department of Finance, to ensure that protocols are in line with operations of the Lands Acquisition Act 1989.

The Department notes the ANAO view that the purchase could have been made at a much later date, and considers that consistent with earlier approaches at Badgerys Creek, and with other airports, acquisition of the land as early as practicable has benefits. The acquisition of the Triangle represented the final parcel of land that needed to be acquired for the airport site, creating a complex market situation.

The acquisition of the Triangle came about alongside the establishment of the Western Sydney Airport Company and the public release of the Government’s Airport Plan which committed to a two runway airport.

Early acquisition provided certainty to stakeholders for long term planning, has allowed Western Sydney Airport Company to plan effectively for the entire development of the Airport as identified in the Airport Plan, and has reduced the risk of future challenges on the Airport development.

The Department agrees that the valuation strategy was unorthodox. However, we note that the strategy was developed in consultation with the Department of Finance and the Australian Government Solicitor and was designed to mitigate the risk of costly and lengthy legal challenges.

As the report notes, the land-holding company had previously challenged land acquisitions at the airport site with the Department spending over ten years in legal proceedings.

The Department's Audit and Risk Committee has been consulted on the audit. They advised the Financial Statements Sub Committee were made aware prior to the Audit and Risk Committee recommending the financial statements be signed by the Secretary, that the accounting treatment of the transaction and its inclusion in the Department's financial statements, had been accepted by the ANAO and that an unmodified audit opinion would be issued.

The Committee was further advised that the ANAO intended to undertake further audit procedures of the purchase, internal reviews on probity and integrity were being undertaken by the Department, and that the ANAO may conduct a performance audit on the matter at a later stage.

Response to recommendations

Recommendation 1

The Department of Infrastructure, Transport, Regional Development and Communications prepare comprehensive and balanced written analysis on the benefits, costs and risks of proposals to spend public money.

Department response

Agreed. The Department has existing frameworks and guidance on the requirements associated with developing proposals to spend public money in accordance with the Public Governance, Performance and Accountability Act 2013.

The Department will review and update existing material to ensure there is a clear requirement for comprehensive and balanced written analysis on the benefits, costs and risks to support proposals to spend public money, and particularly in regard to valuations and land acquisitions. All staff will be reminded of their responsibilities and updated guidance material will be made available to all staff and appropriate training provided.

Recommendation 2

The Department of Infrastructure, Transport, Regional Development and Communications put in place meeting and communication protocols for when staff engage directly with individual landowners, developers or similar parties with heightened probity risks. The protocols should: include guidelines regarding suitable venues; require the presence of at least two departmental representatives; and to require properly recorded minutes of meetings and conversations.

Department response

Agreed. The Department has established protocols on meeting with interested parties developed specifically for the Western Sydney Unit. The guidance is available to all staff. The Department will review the protocols to expand coverage to other areas of the Department.

These will include, at a minimum, guidelines regarding suitable venues; require the presence of at least two departmental representatives; and properly recorded minutes of meetings and conversations. Staff will be reminded of their responsibilities and appropriate training provided.

Recommendation 3

The Department of Infrastructure, Transport, Regional Development and Communications develop policies and procedures to govern its approach to obtaining purchase valuations.

Department response

Agreed. The Department will develop specific guidance materials on obtaining purchase valuations in consultation with the Department of Finance, to ensure that protocols are in line with operations of the Lands Acquisition Act 1989. All guidance material will be made available to staff and appropriate training provided.