

## Award of funding under the Community Sport Infrastructure Program

15 Jan 2020 | **Report**

**Australian National Audit Office**

Australian National Audit Office

The objective of the audit was to assess whether the award of funding under the Community Sport Infrastructure Grant Program was informed by an appropriate assessment process and sound advice.



**Politics**

Thursday, 23rd January 2020

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## LINKS

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## KEY TOPICS

- Prime Minister Scott Morrison has ordered cabinet secretary Philip Gaetjens to conduct an investigation into Agriculture Minister Bridget McKenzie's handling of the \$100m sports grant program, after it emerged that she handed out nearly two-thirds of the grants without seeing recommendations from the agency overseeing the money. Deputy Prime Minister Michael McCormack has also been drawn into the controversy, after it emerged his son's country football club in the NSW Riverina received a \$147,000 grant under the program. - the [Sydney Morning Herald](#)

## MINISTERIAL

DEPUTY PRIME MINISTER AND MINISTER FOR INFRASTRUCTURE,  
TRANSPORT AND REGIONAL DEVELOPMENT, THE HON MICHAEL  
MCCORMACK MP

## PORTFOLIO-RELATED MATTERS

### **Probe into minister's grant to gun club**

Sydney Morning Herald, General News, 23/01/2020, Rob Harris and Nick McKenzie, Page 1

Prime Minister Scott Morrison has asked the nation's top bureaucrat to review whether embattled Nationals deputy leader Bridget McKenzie breached ministerial standards by approving a \$36,000 grant to a shooting club of which she was a member. The so-called sports rorts saga also threatens to drag Nationals leader Michael McCormack into the controversy as it emerged his son's country football club in the NSW Riverina received a \$147,000 grant under the program.

*Also reported by: the Age*

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## GENERAL GOVERNMENT BUSINESS

### **McKenzie needs to go, Mr Morrison**

Age, Editorials, 23/01/2020, Page 18

It is a basic principle of good governance that ministers must not be able to take decisions which benefit themselves or their families personally. It is not OK for ministers, for instance, to have the final say on planning decisions that affect the value of their houses or on coal mines under their farms.

[Read More](#)

### **McKenzie is a problem PM doesn't need**

Herald Sun, General News, 23/01/2020, Andrew Clennell, Page 27

Traditional political wisdom these days says you should wait until scandals are very bad indeed before flicking the trapdoor lever and removing a minister from cabinet. There is a sound strategic reason for that.

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## **Bridget McKenzie: Scott Morrison's public servant to investigate sports grant scandal**

Daily Telegraph Australia, Other, 22/01/2020

Prime Minister Scott Morrison's top public servant will investigate if embattled cabinet minister Bridget McKenzie breached ministerial standards in the deepening sports grant scandal. Mr Morrison referred the Auditor-General's scathing report into the \$100m controversial community sport infrastructure program to Department of Prime Minister and Cabinet secretary Philip Gaetjens last Friday.

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## **Bridget McKenzie reportedly approved \$36,000 grant to shooting club without disclosing she was a member**

SBS.COM.AU, Other, 22/01/2020, Tom Stayner

Former sports minister Bridget McKenzie reportedly approved a \$36,000 grant for her clay target shooting club in regional Victoria. Cabinet Minister Bridget McKenzie has downplayed her ties to a shooting club that received nearly \$36,000 under the federal government's community sports grant program.

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## **Bridget McKenzie should 'fall on her sword' over the 'sports grants' scandal**

Sky News Australia, Other, 22/01/2020

Sky News contributor Caleb Bond says it's time Agriculture Minister Bridget McKenzie "fell on her sword" amid new revelations a shooting club of which she is a member received a \$36,000 grant without the minister declaring her membership. Mr Bond told Sky News host Peter Gleeson Ms McKenzie "must have known what she was doing" when she gave her own club the sports grant, and added "she's been found out and it's time she paid the price for that".

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## **McKenzie shooting club given sport grant**

The Australian, Other, 22/01/2020, Eamonn Tiernan

Senior cabinet member Bridget McKenzie reportedly awarded a shooting club nearly \$36,000 without declaring she was a member. The auditor-general found the former sports minister allocated most of \$100 million in sports grants to groups in seats the coalition was targeting at the last election.

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## **Sports grant saga continues as \$36,000 donated to Bridget McKenzie's shooting club**

Weekly Times Now, Other, 22/01/2020, AAP

The government's sports grant scandal is getting worse, with Bridget McKenzie's giving \$36,000 in funding to a club she was a member of. Senior cabinet member Bridget McKenzie reportedly awarded a shooting club nearly \$36,000 without declaring she was a member.

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## **Channel 7, Seven News, 22/01/2020, Mark Ferguson**

Prime Minister Scott Morrison has now ordered an investigation into Deputy Nationals Leader Bridget McKenzie, to determine if she breached ministerial standards over the 'sports grant scandal'. It follows revelations that she awarded funding to a gun club where she is a member.

### **Channel 7, Seven News, 22/01/2020, Mike Amor**

PM Scott Morrison has ordered an investigation on whether Deputy Nationals Leader and Federal Sports Minister Bridget McKenzie breached ministerial standards over the \$100m community sports program scandal. It follows revelation McKenzie granted \$36,000 of funding to a Victorian gun club which she is now a paid member.

### **Prime7 Albury, Prime Local News, 22/01/2020, Karl Lijnders**

Federal Nationals Leader Michael McCormack criticised his Deputy, Bridget McKenzie as the sports grant scandal took a new twist today. There are growing calls for McKenzie to be sacked after it was revealed she gave tens of millions of dollars to a Wangaratta sports club based on politics rather than merit in the lead up to 2019 Federal election.

### **Seven Tasmania, Nightly News, 22/01/2020, Jo Palmer**

Federal Labor is calling for Bridget McKenzie to resign, following revelations she awarded money to the Wangaratta Gun Club she's a member of. Bill Shorten says Prime Minister Scott Morrison has to act.

### **Sky News Live, The Front Page, 22/01/2020, Peter Gleeson**

Panel discussion with 6PR host Oliver Peterson and The Advertiser's Caleb Bond. Gleeson says The Age's front page is splashed with a story about Bridget McKenzie.

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### **Sky News Live, AM Agenda, 22/01/2020, Tom Connell**

Connell is joined by Sky News Political Editor Andrew Clennell. Clennell discusses former Sports Minister Bridget McKenzie's defence of the revelation about a sports grant going to a club she was a member of.

### **6PR, Perth Live, 22/01/2020, Oliver Peterson**

Regular Segment: The Heating Zone with Jenna Clarke, assistant editor, The West Australian Peterson says PM Scott Morrison has just ordered an investigation into Senator Bridget McKenzie's handling of the sports grant saga. Clarke comments this is a hot mess.

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## Grant program supported

Daily Liberal, General News, 23/01/2020, Ryan Young, Page 5

A controversial sports grants program which saw Dubbo groups benefit has been defended by the federal Member for Parkes Mark Coulton. Former federal sports minister Bridget McKenzie has been under fire after the Australian Auditor-General released a report into the Community Sport Infrastructure program which awarded \$100 million in grants to groups across Australia.

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## McKenzie approved more than \$1m for shooting clubs

Sydney Morning Herald, General News, 25/01/2020, Rob Harris, Page 3

Embattled Nationals deputy Bridget McKenzie signed off on more than \$1 million for shooting clubs and associations during her time as sports minister, potentially opening her up to further allegation of conflicts of interest. An investigation into whether Senator McKenzie breached ministerial standards by failing to declare memberships and patronage of shooting clubs and bodies during her handling of a \$100 million sports grant program could be handed to Prime Minister Scott Morrison as early as today.

*Also reported by: The Saturday Age*

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## Sports grants expose broken system

The Saturday Paper, General News, 25/01/2020, Karen Middleton, Page 1

Ten months ago, the then federal MP for the Victorian seat of Indi, independent Cathy McGowan, asked the auditor-general to investigate what she alleged was the politicisation of an \$800 million federal grants scheme, known as Building Better Regions. In the weeks leading up to the May federal election, McGowan complained the Regional Services minister, accompanied by Coalition candidates, had been announcing grants to local organisations for which McGowan had advocated as their MP, without notifying either her or the unsuccessful applicants.

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## Minister's fate coming to a head

Canberra Times, Other, 25/01/2020, Colin Brinsden

The fate of Deputy Nationals Leader Bridget McKenzie could come to a head this weekend, as newspaper reports unearthed further revelations into the so-called \$100 million sports rorts scandal. Prime Minister Scott Morrison has asked his head of department Philip Gaetjens to investigate whether any part of Senator McKenzie's handling of the \$100 million Community Sport Infrastructure Program breached ministerial standards.

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## **Sports grants: Michael McCormack stands by Bridget McKenzie, saying she has done 'outstanding job'**

Guardian Australia, Other, 24/01/2020, Sarah Martin

Nationals leader Michael McCormack has mounted a staunch defence of his embattled deputy Bridget McKenzie, saying she has done an "outstanding job" and dismissing calls for her resignation. Speaking in Coffs Harbour on Friday, McCormack said the scandal-ridden community sport infrastructure program had been a "very good" scheme that had resulted in hundreds of community sports clubs receiving grants, particularly in regional areas.

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## **ABC, ABC News, 24/01/2020, Kirsten Aiken**

Nationals Leader Michael McCormack has strongly defended Deputy Nationals Leader Bridget McKenzie, who is under pressure to resign over the sports grants scandal. It comes amidst growing government doubts McKenzie will survive after a report found clear political bias in the way McKenzie handed out \$100m worth of grants to sporting clubs across the country and McKenzie's own admission she was a member of the club she funded and not declaring it.

## **ABC News, News Breakfast, 24/01/2020, Paul Kennedy and Madeleine Morris**

Live cross to ABC News Political reporter Matt Doran at the Parliament House in Canberra. The Federal Opposition is attempting to increase the pressure over the sports grants controversy as they call for the findings of the investigation into Bridget McKenzie be public.

## **ABC News, Mornings, 24/01/2020, Ros Childs**

Press Conference by Michael McCormack, Leader of the Nationals. McCormack is asked if Prime Minister Scott Morrison is involved with Senator Bridget McKenzie with the sports program. He says his office and Morrison aren't involved in liaising with McKenzie for the sports program. He notes Sports Australia handled the accountability and the delivery of the funding to projects.

## **ABC News, News Breakfast, 24/01/2020, Michael Rowland and Lisa Millar**

Interview with ABC 7.30 Political Editor Laura Tingle. Kennedy notes the \$100m sports grants scheme involving Bridget McKenzie's marginal and targeted seats in the federal election. Tingle notes the change of tone and language between McKenzie's colleague and the PM, indicating McKenzie's resignation. She mentions McKenzie has a lot of support such as Nationals Leader Michael McCormack.

## **Channel 10, The Project, 24/01/2020, Marc Fennell, Sarrah Le Marquand, Joel Creasey and Lisa Wilkinson**

Comperes are joined by Peter van Onselen, political editor, Network 10. Fennell says Bridget McKenzie decline their invitation for an interview. Van Onselen says PM Scott Morrison isn't moving until the report was released from Cabinet. He thinks Morrison will move against McKenzie for the grant to a club that she was a patron of and didn't declare.

### **Channel 10, The Project, 24/01/2020, Marc Fennell, Sarrah Le Marquand, Joel Creasey and Lisa Wilkinson**

The report on Bridget McKenzie's sports rorts issue will be handed down from the Prime Minister's office at the weekend. The Auditor-General's report found 73% of the approved projects had not been approved by Sport Australia. The Bethania Cricket Club was given \$100,000 before the Liberals won in the Seat of Forde. Adelaide's Old Collegians Rugby Club in a marginal coalition seat was awarded \$500,000 for ladies' dressing rooms despite not having a current women's team.

### **Channel 10, 10 News First, 24/01/2020, Hugh Riminton**

The government is curbing speculation the PM is considering a significant Cabinet reshuffle as he tries to regain control of the sports rort scandal. Involved Minister Bridget McKenzie sees no reason to resign but it could change with the government investigation set to be finalised over the weekend. A \$500,000 grant for new female change rooms went to a Rugby club in a marginal Adelaide seat which hadn't fielded a women's team since 2018 when the entire side quit due to sexism.

### **Channel 7, Seven News, 24/01/2020, Chris Reason**

National Party Leader Michael McCormack has again thrown his support behind embattled Deputy Leader Bridget McKenzie, despite calls for her resignation. McCormack says speculation that some within the party want her to resign is untrue, saying he will wait for the investigation to run its course. Prime Minister Scott Morrison says he will take appropriate action when the report is handed down.

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### **Channel 9, Today, 24/01/2020, Karl Stefanovic, Allison Langdon, Alex Cullen and Tracy Vo**

Continuing panel discussion with Peter Dutton, Minister for Home Affairs; Richard Marles, Deputy Opposition Leader on the planned cabinet reshuffle of PM Scott Morrison which put Bridget McKenzie at stake. Dutton says the possibility of a cabinet reshuffle isn't certain at the moment. He thinks the case wasn't formed for McKenzie's dismissal.

### **Channel 9, Today, 24/01/2020, Karl Stefanovic, Allison Langdon, Alex Cullen and Tracy Vo**

Continuing Regular Segment: News This Morning with Neil Mitchell, 3AW and Rebecca Maddern, Weekend Today host. Langdon says Bridget McKenzie's fate rests in the hands of the PM Scott Morrison's office after filing the \$100m in grants to marginal seats before last year's election. Mitchell says there are 417 grants that are dodgy in seats, that could be influenced.

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### **SBS, World News Australia, 24/01/2020, Ricardo Goncalves**

Deputy Prime Minister Michael McCormack says he still supports Nationals Deputy Leader Bridget McKenzie amid an investigation into the sports grants controversy. McKenzie is under pressure to resign over her management of the \$100m scheme during her term as Sports Minister. It comes after the report of the Auditor-General, revealing the scheme was distributionally biased as it targets marginal electorates.

### **Sky News Live, Credlin, 24/01/2020, Peta Credlin**

Joined by Jane Marwick, broadcaster. Credlin says Feedback Friday has returned. She notes Marwick called her to join in her talkback program. She mentions the hypocrisy with Labor and the facts of [Deputy Nationals Leader] Bridget McKenzie's sports rort saga. She says they asked if the PM [Scott Morrison] should sack her over the drama. Marwick notes it is a political immediate bubble issue.

### **Sky News Live, The Kenny Report, 24/01/2020, Chris Kenny**

Interview with Lanai Scarr, national political editor, The West Australian. Scarr says it will be tricky for the PM to get rid of Bridget McKenzie and adds it is up to Michael McCormack to make that decision. Scarr states McKenzie is a strong female performer in Cabinet. Kenny says McKenzie is the only female in the leadership team, as the Deputy Leader of the Nationals.

### **Sky News Live, AM Agenda, 24/01/2020, Tom Connell**

Connell is joined by Andrew Clennell, Political Editor, Sky News. Speculations now mount over the future of Deputy Nationals Leader Bridget McKenzie. Clennell believes McKenzie could end up resigning as early as Saturday or Sunday. He states PM Scott Morrison wants McKenzie gone from her role, based on the reports provided by Mr Philip Gaetjens from the Department of the Prime Minister and Cabinet.

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### **Sky News Live, First Edition, 24/01/2020, Peter Stefanovic and Laura Jayes**

Nationals leader Michael McCormack is dismissing calls to sack Deputy leader Bridget McKenzie following the sports rorts saga. He says he's standing by her after Prime Minister Scott Morrison refused to guarantee her future. A report from Morrison's department is assessing whether McKenzie breached ministerial standards.

### **Sky News Live, AM Agenda, 24/01/2020, Tom Connell**

Home Affairs Minister Peter Dutton says Nationals Deputy Leader Bridget McKenzie has no case to answer despite reports she's facing the axe. McKenzie is refusing to resign over the sports grant scandal. Nationals Leader Michael McCormack is standing by McKenzie and has been back by Dutton this morning.

### **ABC Ballarat, Statewide Drive, 24/01/2020, Nicole Chvastek**

Interview with Eryk Bagshaw, political correspondent, The Age. Chvastek says deputy PM Michael McCormack continues to defend Bridget McKenzie. Bagshaw says there are reports McKenzie will be fired this afternoon. He states PM Scott Morrison is in some ways powerless. He says it will depend on McCormack whether McKenzie will stay or not.

### **ABC Ballarat, Breakfast, 24/01/2020, Steve Martin**

Martin says it's the end of the Christmas-New Year period and they're all back and on the go. Hughes says he's still on holiday and doesn't go back on Tuesday. He discusses the case of Bridget McKenzie and says that if she had been Liberal, she'd be gone by now already. Hughes says there's a lot of talk that she will resign later this afternoon.

### **2GB, The Chris Smith Show, 25/01/2020, Chris Smith**

Interview with Sky News political editor Andrew Clennell. Smith says the Weekend Australia report stated two of PM Scott Morrison senior staffer were involved in handling funding applications of the controversial million-dollar sports grant program involving Bridget McKenzie. Clennell says the PM's office was involved with lobbying on behalf of MPs, however, has nothing to do with the process.

### **2GB, Ben Fordham Live, 24/01/2020, Ben Fordham**

Interview with Laura Jayes, Sky News. Fordham states embattle Nationals MP and former Sports Minister Bridget McKenzie is hanging in there despite increasing pressure for her to resign. He notes McKenzie is fighting allegations of pork barrelling and is accused of giving out \$100m in sports grant to mostly marginal seats. He says the PM Scott Morrison referred to matter to his top public servant.

### **2GB, Afternoons, 24/01/2020, Deborah Knight**

Interview with Deputy PM Michael McCormack. Knight says Senator Bridget McKenzie is under a lot of pressure to resign, while other government officers are fiercely denying the allegations on the sports rort. She states McKenzie is accused of pork barrelling the \$100m Community Sports Infrastructure Grant program. She mentions two separate investigations are ongoing by the Attorney General and the head of the PM's Department Phil Gaetjens.



## **2GB, Mornings, 24/01/2020, Ray Hadley**

Hadley is joined by Deb Knight, presenter, 2GB. Knight says she will interviewing Deputy Prime Minister Michael McCormack after he defended Bridget McKenzie despite PM Scott Morrison's launching of an investigation. Hadley says the PM has met with the Treasurer and the Deputy PM, saying he believes the PM has spoken to McCormack regarding McKenzie because she is the Nationals Deputy Leader.

## **2GB, Mornings, 24/01/2020, Ray Hadley**

Hadley notes spending the week discussing the alleged sports rorts grants by Minister Bridget McKenzie. He says yesterday, Sky News' Andrew Clennell reported the Senator will be sacked or will stand down this afternoon. He says he received information from the Nationals. He offers his condolences to PM Scott Morrison's family after the passing of his father John at the age of 54.

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## **2GB, Breakfast, 24/01/2020, Chris Smith**

Smith wonders if Barnaby Joyce will come back to the leadership of the National Party. He says all analysis and commentary on what's happening in the sports grants scandal. He adds according to The Australian newspapers, Michael McCormack has lessened to a handful. He states if Bridget McKenzie will be forced out this afternoon as deputy leader, McCormack losses another ally. He adds there will be either David Littleproud or Matt Canavan.

## **6PR, Mornings, 24/01/2020, Gareth Parker**

Regular Segment: The Final Word with Lisa Barnes and Gary Adshead. Barnes states she cannot see how [Deputy Nationals Leader] Bridget McKenzie will survive since the Government will have to act on this issue if they want to gain ground on other issues. Adshead mentions [Government Minister] Alan Tudge had plenty of questions about McKenzie at the High Street widening project near Fremantle the other day.

## **ABC News, Breakfast, 24/01/2020, Sandy Aloisi**

Aloisi is joined by Matt Doran, political reporter, ABC News. Aloisi says pressure on mounting on Deputy Nationals leader Bridget McKenzie as another investigation underway into allegations she used a \$100m grant program as a slash fund. She notes the Federal Opposition demands findings to be released as soon as possible. Aloisi adds it's calling on the Prime Minister's Department to look into Scott Morrison's role in the saga.

## **ABC News, Mornings, 24/01/2020, Matt O'Neil**

Interview with Mark Kenny, senior fellow, ANU Australian Studies Institute. O'Neil notes Nationals Deputy Leader Bridget McKenzie is digging in amid pressure to quit over a sporting grants scandal engulfing the Federal Government. He says Prime Minister Scott Morrison has promised to take whatever action is needed after the head of his department investigates whether ministerial standards have been broken.

### **ABC Radio Canberra, AM (Saturday), 25/01/2020, Thomas Oriti**

Report by Tom Iggulden. Labor will continue to pursue a Senate inquiry into the sports grant scheme even if Cabinet Minister Bridget McKenzie, at the centre of the controversy, resigns. Shadow Sports Minister Don Farrell is vowing to get to the bottom of which sporting clubs missed out on funding, despite recommendations from Sports Australia.

### **ABC Radio Canberra, 14:00 News, 24/01/2020**

The Federal Labor frontbencher Chris Bowen says Deputy Nationals Leader Bridget McKenzie should be taken out of the Cabinet before the end of the long weekend. McKenzie is under investigation by the Department of the Prime Minister and Cabinet on the administration of \$100m in sporting grants. Deputy PM Michael McCormack says he does not want to preempt the investigation findings.

### **ABC Radio Sydney, 12:00 News, 24/01/2020**

Nationals Leader Michael McCormack says his Deputy, Bridget McKenzie, still has his support despite pressures for her to stand down due to her management of the controversial sports grants program. It comes as the Secretary of the Department of Prime Minister and Cabinet commenced an investigation into whether McKenzie really breached ministerial rules.

### **Radio National, PM, 24/01/2020, Linda Mottram**

Report by Stephanie Borys. Nationals Deputy Leader Bridget McKenzie has survived the week despite intense pressure for her to resign over her handling of the Community Sports Infrastructure Grant Program. Around \$100m was handed out to 684 groups ahead of the Federal Election. Sport Australia assessed each application but the Auditor-General found the then Sports Minister McKenzie essentially ignored the advice.

### **Radio National, Breakfast, 24/01/2020, Norman Swan**

Interview with The Conversation political correspondent and University of Canberra Professorial Fellow Michelle Grattan. Swan says there is a clear misuse of taxpayer's money by Bridget McKenzie. McKenzie says the politics is still playing out. She mentions Scott Morrison has made it clear that he has put a process already and handed it over to the head of his department.

**ABC, ABC News, 24/01/2020, Kirsten Aiken**

Deputy Nationals Leader Bridget McKenzie's fate now rests on whether she has been found to have breached ministerial standards, with senior government figures now expecting she is going to be found in breach and be removed. The Head of the PM's Department is due to report back as soon as tomorrow. McKenzie did not declare her membership to a gun club as required before awarding it a grant despite assurances of the contrary from Nationals Leader Michael McCormack.

**2GB, Afternoons, 24/01/2020, Deborah Knight**

Interview with Deputy PM Michael McCormack. Knight says Senator Bridget McKenzie is under a lot of pressure to resign, while other government officers are fiercely denying the allegations on the sports report. She states McKenzie is accused of pork barrelling the \$100m Community Sports Infrastructure Grant program. She mentions two separate investigations are ongoing by the Attorney General and the head of the PM's Department Phil Gaetjens.

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### **Sports grants expose broken system**

The Saturday Paper, General News, 25/01/2020, Karen Middleton, Page 1

Ten months ago, the then federal MP for the Victorian seat of Indi, independent Cathy McGowan, asked the auditor-general to investigate what she alleged was the politicisation of an \$800 million federal grants scheme, known as Building Better Regions. In the weeks leading up to the May federal election, McGowan complained the Regional Services minister, accompanied by Coalition candidates, had been announcing grants to local organisations for which McGowan had advocated as their MP, without notifying either her or the unsuccessful applicants.

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January 21, 2020

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## The Great Rort



Where there's a rort, there's a way. A damning audit of community sports funding has revealed that it's still possible to abuse taxpayer funds for political gain. We follow the trail of one of the country's greatest rorts.

Crunching the numbers on whether the sports rorts made a difference. Will the fires shift the politics of climate change? What can we learn from the latest NDIS review? Plus, *Crikey's* guide to NSW Environment Minister Matt Kean.

#### POLITICS

**The government ditched its own grants website to hide sports rorting**

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**Righting the wrong: could a class action against the sports rort deliver justice?**

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## The government ditched its own grants website to hide sports rorting

BERNARD KEANE



*Bridget McKenzie (Image: AAP/James Ross)*

In order to reort the Community Sport Infrastructure Program, the government abandoned its own, bespoke, \$100 million online grants platform meant to enable access to all Commonwealth grants.

In 2015, as part of its “Digital Transformation Agenda”, the government committed to spend “\$106.8 million for streamlining government grants administration by adopting standard business processes, a common ICT platform, improved reporting arrangements and a single portal to search and apply for grant opportunities”.

The “Streamlining Grants Administration Initiative” led to the creation of two grants hubs in 2016 — one for business, the other for community groups and individuals — operated by the Department of Social Services, which were intended to be one-stop-shops for all Commonwealth grants.

They would provide information about grant opportunities, applications for them, and record-keeping about who had received them. Via Grantconnect, potential applicants can learn about grant opportunities across the whole of government and how to apply for them, as well as find out who has received them.

As all Commonwealth agencies moved to Grantconnect, the government promoted its initiative. In last year’s budget, it boasted

“ The Streamlining Government Grants Administration Program continues to reduce the duplication of effort and expense associated with agencies administering grants programs individually. The Program has established two new Grants Hubs (the Community Grants Hub and the Business Grants Hub) to deliver around \$10 billion

per annum in grants on behalf of 14 agencies, and to provide an improved experience to grant applicants and recipients.

The Department of Health was one of the first to sign up to Grantconnect, with Health Minister Greg Hunt spruiking [the use of the system](#) in his media releases. Nationals Minister Bridget McKenzie also recommended the use of Grantconnect when she contacted local councils advising of [extra drought funding](#) in 2018.

The hubs are intended for all Commonwealth entities' use, not just departments administering grants. Regulators like ASIC, non-corporate Commonwealth entities like Geoscience Australia and corporate Commonwealth entities like Wine Australia and the National Disability Insurance Agency all use it.

However, the Sports Commission, a corporate Commonwealth entity, does not yet use Grantconnect.

And when the government decided to fund a new sports infrastructure program in 2018, it not merely avoided handing control of the program to a Commonwealth department, but it avoided using the very site it had spruiked as the one-stop shop for all Commonwealth grants.

This was, seemingly, a peculiar decision. The Department of Health, which has responsibility for sport, was already using Grantconnect to provide [sporting grants](#), large and small, in programs like the Sporting Integrity Program and Physical Activity Projects program in 2018.

And sporting infrastructure grants were *already available* via Grantconnect from the Department of Infrastructure's Regional Development programs. As Grantconnect shows, these were in 2018 already providing a wide range of grants for projects like [upgrading change rooms and showers](#), [improving playing surfaces](#), [fixing tennis courts](#), providing [Little Athletics facilities](#), or [improving lighting](#).

Indeed, the new program was actually announced in the Department of Infrastructure [budget papers](#), and its similarity to existing programs was referred to as “complementing existing government investments through regional development programs”.

Why did the government not simply expand the existing infrastructure programs that were already helping sports clubs around Australia?

Giving the program to infrastructure, however, would have meant the [Commonwealth Grants Rules and Guidelines](#) would have had to be applied. They require, as the Department of Finance [explains](#), “that Ministers **must** not approve a grant or group of grants without first receiving written advice from officials on the merits of the grant or group of grants”. (Emphasis original.)



But the last thing the government wanted was written advice on the merits of grants — it wanted to pork barrel marginal electorates, not allocate grants on merit.

Indeed, the Australian National Audit Office noted that Bridget McKenzie’s office explicitly told the Australian Sports Commission *not* to send its assessment of grant applications, approved by the commission board, to the minister, as that would create a paper trail that would shows the divergence between what the minister approved and what was recommended on their merits.

And putting the program on Grantconnect would also have come with extra requirements: when grants are allocated, full details must be published within 21 days, along with any variations.

If the grants McKenzie wanted to [rort](#) were published rapidly, not merely would Coalition MPs and candidates have less opportunity to use the awarding of grants for PR purposes, the details would demonstrate how skewed the grants were toward marginal seats.

It was an ultimately unsuccessful attempt to hide blatant porkbarrelling via a program that didn’t need to exist, administered by an agency that shouldn’t have done it, avoiding the government’s own probity and transparency requirements.

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## Rorters, take note. Buying votes is tempting but it doesn’t seem to work

**WILLIAM BOWE**



Of the many depressing features of the recent [sports rorts scandal](#), perhaps the worst is its familiarity, given the striking parallels with the Ros Kelly whiteboard affair of the Keating government's terminal phase in the mid-1990s.

Even allowing for the fact that standards have apparently fallen to the point where Bridget McKenzie looks likely to keep her job, one might have thought the Kelly precedent would have given McKenzie pause for thought as she oversaw the allocation of \$100 million in a manner transparently tailored to boost the Coalition's electoral prospects.

Her failure to do so offers a telling insight into how much political operators imagine they have to gain by enticing voters with expensive baubles.

Given the government's success in winning a third term when it appeared to have so much going against it, it may be tempting to reach the disheartening conclusion that this outlook has been vindicated.

However, when the election result is analysed in detail, scant evidence emerges that McKenzie's efforts did the Coalition any good at all.

At issue is the distribution of 684 grants out of the Community Sports Infrastructure fund, around two-thirds of which was allocated to specific clubs and local projects, with most of the rest going to local councils.

The table below accounts for the 20 electorates that did best out of the bargain, and provides as clear an indication as any of the lack of subtlety with which McKenzie went about her work.

Lest anyone think the program was all bad, grants targeting Indigenous communities lifted the Northern Territory seat of Lingiari to the top of the pile, despite it being a long shot proposition for the Coalition at the election.

After that though, the list is a clean sweep of conservative seats, including two the Liberals were hoping to win back from crossbenchers (one being Mayo, where the [trouble all began](#)).

Almost all were of the highest strategic importance, being on margins below the Australian Electoral Commission's 6% threshold for designating a seat as marginal (including Corangamite and Dunkley, which were held by the Liberals but notionally Labor after the Victorian redistribution).

The exceptions at the upper end tended to be held by the Nationals, perhaps for the reasons [noted here yesterday by Bernard Keane](#).

Comparison with the opposite extreme is instructive — the 20 seats that received the least amount of funding consisted of four the Coalition knew they wouldn't lose, and 16 they knew they couldn't win.

**Did the sports rorts make a difference?**



Seat	Held by	Amount received	Swing to L-NP
Lingiari (NT)	Labor (8.2%)	\$1,826,440	2.7%
Sturt (SA)	Liberal (5.4%)	\$1,717,189	1.5%
La Trobe (VIC)	Liberal (3.2%)	\$1,644,893	1.3%
Dawson (QLD)	Nationals (3.4%)	\$1,565,347	11.2%
Boothby (SA)	Liberal (2.7%)	\$1,523,268	-1.3%
Indi (VIC)	Independent (5.5%)	\$1,440,628	7.7%
Dunkley (VIC)	Liberal (Labor 1.0% *)	\$1,402,777	-1.7%
Mayo (SA)	Centre Alliance (2.9%)	\$1,402,504	-0.7%
Wannon (VIC)	Liberal (9.2%)	\$1,384,169	1.2%
Page (NSW)	Nationals (2.3%)	\$1,322,643	7.2%
Barker (SA)	Liberal (3.4%)	\$1,300,330	5.1%
Petrie (QLD)	Liberal (1.7%)	\$1,298,956	6.8%
Brisbane (QLD)	Liberal (5.9%)	\$1,271,919	-1.1%
Grey (SA)	Liberal (2.0%)	\$1,265,703	5.6%
Gippsland (VIC)	Nationals (18.2%)	\$1,188,487	-1.5%

At first glance, it might be thought that the sports grant pork-barrel landed a few successes, with the average Coalition swing of 2.8% out of the top 20 comparing with a national result of 1.2%.

However, this is inflated by a couple of outliers: the north coast New South Wales seat of Page, where Nationals member Kevin Hogan enjoyed the second biggest Coalition swing in the state after Joel Fitzgibbon's [near-death experience in Hunter](#), and the north Queensland seat of Dawson, where George Christensen defied every political maxim going to pick up the second biggest swing in the country.

In country seats especially, electoral effects of sports club grants should be highly localised — and the deeper one burrows into the data, the harder it gets to discern any such effect.

When polling booth and sport grants data are aggregated into 2288 local regions designated by the Australian Bureau of Statistics, there turns out to be no correlation whatsoever between the amount of funding they received and how much they swung to or against the Coalition.

This should not actually come as a surprise, since the Coalition owed its win not to fortuitous patterns of voting in decisive seats, but to a 51.5% share of the national two-party vote.

In other words, this was an election won at the macro rather than the micro level — in particular, by the force of Scott Morrison's adroit sloganeering against an unpopular opponent encumbered by an over-ambitious agenda.

As such, the sports grants affair stands testament not just to the deviousness of much of the political class, but also to its egotism in imagining that elections hinge upon ultimately inconsequential tactical manoeuvres cooked up in ministerial offices.

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## Righting the wrong: could a class action against the sports rort deliver justice?

AMBER SCHULTZ



Well, as *Crikey* predicted, Agricultural Minister Bridget McKenzie isn't likely to face consequences from within her party for doling out \$100 million worth of sports community grants to organisations in seats likely to swing Liberal. She has Scott Morrison's [support](#) and has rejected calls to resign.

But repercussions may come from outside the government, with Slater and Gordon Lawyers announcing it is [investigating a class action](#) over the sports rort.

So just what would such a case look like?

#### **A one-of-a-kind class action**

As it turns out, the entire sports grants program may be [unconstitutional](#). Constitutional law expert Professor Anne Twomey has warned that the federal government lacks the power to hand out money to sports clubs.

The Australian National Audit Office further found [in its report](#) into the rorts that McKenzie acted without legal authority, as only Sports Australia was permitted to approve the grant — not the minister.

Leading Slater Gordon's class action investigation is practise group leader Andrew Baker, who told *Crikey* the case is potentially "unique": his firm hopes to cover "several hundred" groups which missed out on funding.

"Any class action we pursue would be intended to cover all such groups, with the intention of putting them in the position they would have been in had the correct process been followed," Baker said. If it goes ahead, the case is likely to be held in the Federal Court.

Baker added that without a class action, most sports groups would be reluctant to fight the government as it would affect the possibility of future grants.

“The best-case scenario is that the groups that would have been funded under Sport Australia’s assessments are given the funds that they were originally recommended to receive,” Baker said.

The stated aim of the grants program is to increase community participation in sport and physical activity.

But, as was [revealed yesterday](#), McKenzie apparently determined that places like the Tea Tree Gully Golf Club — which plans to build a new foyer and install a lift to make the place more appealing as a wedding venue — was apparently more deserving of funding than, for example, the Coledale Waves Football Club — which is used by 1200 players each week and is in dire need of a [new change room](#).

“Every dollar that went to a club whose application should have been unsuccessful is a dollar that didn’t end up with a club that Sport Australia had identified and recommended for funding in the course of proper processes,” Baker said in a Slater and Gordon media release.

“These community organisations, clubs and groups have lost out because it appears public funds were used for political gain.”

Maurice Blackburn principal lawyer Josh Bornstein has also offered to work pro bono for clubs that were denied funding.

### **Any lawsuit would be long, painful and unprecedented**

Marque Lawyers managing partner Michael Bradley said he couldn’t think of any similar class actions. “It’s a new one ... it’s unprecedented in terms of the concept and would involve some pretty novel legal arguments,” he said.

With the government looking at the rort from a political perspective and focusing on larger legal issues, Bradley predicted the class action was “pretty unlikely to get off the ground ... the government would mitigate against the likelihood of it really going ahead”.

But, he predicted, organisations screwed over by the rort could try to claim the money they would have been granted, or what it cost them to apply. (Coledale Waves said it spent more than [100 hours](#) preparing its application.)

“They could claim they were the victims of some sort of fraud or misrepresentation, or that it was a breach of contract and they were lied to,” Bradley said, adding that a case like this could drag on for years.

While any hopes for accountability and justice is likely to be drawn out and complicated, the Liberal government may be starting to learn that sometimes there are consequences for actions — and it only takes one novelty cheque to throw you under the bus.

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## Scotty from Marketing taps Gaetjens to fudge sports report

Posted by Leith van Onselen on 23 January, 2020

Last week, the Australian National Audit Office (ANAO) delivered a scathing report into the \$100 million sports grant scheme — formally the Community Sport Infrastructure program — which was established in 2018 to give funding to grass roots sports clubs to assist with player growth. The ANAO report found that projects in target electorates identified

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**From:** s22  
**Sent:** Friday, 17 January 2020 2:22 PM  
**To:** IMDR  
**Subject:** Media for 17 January 2020 [SEC=UNOFFICIAL]

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As expected the ANAO report into the award of funding under the community sport infrastructure program has received extensive media coverage again today, including:

- [The Mandarin](#) 'Minister defied agency to give grants to marginal seats, audit found'.
- The Guardian ['Mounting calls for Bridget McKenzie to resign over 'extraordinary' grant allocation'](#).

### **Battleground marginals get more than a sporting chance**

**The Australian** by Rosie Lewis Ben Packham

Friday 17th January 2020 at 12.00am - Page 1

Battleground seats get more than sporting chance Bridget McKenzie's controversial \$100m sports grant program is set to be scrutinised by federal parliament, amid revelations more than a third of the funding went to the country's most marginal seats. The Nationals...

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### **McKenzie refuses to quit for cash splash**

**The Sydney Morning Herald** by Rob Harris

Friday 17th January 2020 at 12.00am - Page 4

Cabinet minister Bridget McKenzie has defended her role in dishing out \$100 million of sporting grants to marginal seats ahead of last year's election campaign, signalling the Morrison government won't tighten rules to stop community grants programs becoming slush funds....

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# Constitutional Forum

CEFAs Constitutional Forum

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## Our Constitution and sports grants



You might remember the election campaign in 2019 with Liberal and National Party members and candidates announcing grants for sporting clubs. The Australian National Audit Office (ANAO) was prompted to have a look into the Community Sport Infrastructure program.

Last week the ANAO report was handed down. Since then the media have headlined debate over Ministerial power to hand out grants and whether the power to make grants to sporting clubs is a Commonwealth or State Power.

So what things can the Commonwealth legislate about?

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 The Great Rort



Where there's a rort, there's a way. A damning audit of community sports funding has revealed that it's still possible to abuse taxpayers funds for political gain. We follow the trail of one of the country's greatest rorts.

Inside one of the greatest rorts in Australian political history. The right discovers the tragic consequences of its nihilistic politics. A life without coal. Plus, *Crikey* decodes the NT News!

## POLITICS

**Anatomy of a rort: how the Coalition spent \$100 million in grants to help its election campaign**

## POLITICS

**McKenzie's magic maths: numbers show how badly government rorted sports grants**

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**Anatomy of a rort: how the Coalition spent \$100 million in grants to help its election campaign**

**BERNARD KEANE**



*Minister for Agriculture and former Minister for Sport Bridget McKenzie (Image: AAP/Mick Tsikas)*

Ros Kelly can finally relax: a quarter century after the [“sports rorts”](#) affair ended her political career, there’s a new sports grants rort that dwarfs hers, the details of which have been forensically dissected by the [Australian National Audit Office](#) (ANAO).

The offender? Nationals Senator Bridget McKenzie and her office, which systematically abused the \$100 million Community Sport Infrastructure Program, ostensibly administered by the Australian Sports Commission, to help the government’s 2019 election campaign.

The ANAO’s analysis was prompted by a referral from Labor’s Mark Dreyfus after serial Liberal failure Georgina Downer presented [a novelty cheque to a bowling club](#) in the electorate of Mayo before last year’s election. It outlines the extraordinary ways in which legal and procedural hurdles to the partisan abuse of the grant program were overcome by ministerial staff.

Here’s how they did it:

### **1. Avoid the rules**

It’s harder to rort grants these days because the Commonwealth Grant Rules and Guidelines (CGRGs) apply to public service agencies and all non-corporate public bodies. So the first step was to select an agency that wasn’t bound by the CGRGs. The Sports Commission, or “Sport Australia” as it brands itself, is a notionally independent corporate entity so the CGRGs don’t apply.



But there was a problem — under its act, if the Sports Commission hands out grants, *it* has to decide who gets them. The Commission’s portfolio department, Health — which played a key role in this scam — told the commission that *McKenzie* would be deciding who got grants, thanks very much.

But how? Under section 11 of its act, the commission *can* be directed by the minister, but only after an extensive process. So what did McKenzie and Health do to make sure she would decide, not the commission?

They simply ignored the law. The ANAO explains:

“ In early June 2018, Sport Australia recorded that adherence to the ASC act required that it, not the minister, approve the award of CSIG funding... The guidelines published on 2 August 2018 identified that the minister would approve CSIG funding...

Throughout the granting process all parties acted as if the minister was able to be the approver. No section 11 directions were issued to Sport Australia in 2018-19. In the absence of a section 11 direction, there was no legal authority evident to the ANAO under which the minister was able to be the approver of CSIG program grants to be paid from the money of Sport Australia.

McKenzie had no legal authority to hand out a single dollar of the \$100 million in grants.

## **2. Allow late and amended applications**

One of the cardinal rules of Commonwealth administration is to never treat applicants — whether for grant applications or participants in a request for tender — differently. But McKenzie’s office demanded that the commission accept nine applications that were either late or were amended by the participants after the deadline, despite the commission *specifically telling them* it was in breach of the program guidelines.

All nine dodgy applications were funded, and eight of them were funded when projects that ranked higher on the commission’s proper assessment weren’t funded.

2.31 One of the resubmitted applications was originally scored 92 out of 100 by Sport Australia and was recommended for funding in round one and in round two. The material submitted by the remaining eight project proponents, and the assessments undertaken by Sport Australia, did not demonstrate how these applications reflected 'emerging issues' or addressed priorities that had not been met. They were assessed by Sport Australia as not demonstrating high merit against the criteria, with aggregate scores ranging between 40 and 71. While higher scored applications from the competitive process undertaken in August to September 2018 remained available for approval, each of these new or resubmitted applications were approved for funding as part of the third round.<sup>31</sup>

### **3. Ignore the commission's own assessment**

The big problem facing McKenzie's office was that the commission would assess applications on their merits, rather than according to the Coalition's political needs.

So McKenzie's office asked for a full spreadsheet of applications, but once the commission completed its assessment and it was approved by the commission board, McKenzie's office warned them not to send that approved list, ostensibly on the basis that more funding was coming from the government.

Instead, her office sent the commission *its* assessment. As the ANAO notes, the commission's formal list of approved grants was never sent.

3.19 The board-endorsed list and funding recommendations were to be submitted to the Minister soon thereafter. However, Sport Australia decided to put the brief 'on hold' on 22 November 2018 due to receiving advice from the Minister's Office the day prior that the amount of Community Sport Infrastructure Grant Program (CSIG/the program) funding was likely to be increased through the Mid-Year Economic and Fiscal Outlook (MYEFO) process.<sup>43</sup> Before Sport Australia had provided the board-endorsed list to the Minister, it received a list of 'approved' CSIG projects from the Minister's Office on 5 December 2018. The board-endorsed list was never subsequently provided to the Minister (discussed at paragraph 4.14).

### **4. Allocate grants based on election campaign needs**

With the merit-based application process stymied, McKenzie's office then ran its own "parallel assessment process as a basis for the minister deciding which projects should be funded with additional analysis on 'marginal' electorates held by the Coalition as well as those electorates not held by the Coalition that were to be 'targeted' in the 2019 election".

The results of this assessment were substituted for the commission assessment it refused to accept from the board.

3.21 The spreadsheet provided to the Minister’s Office by Sport Australia on 8 November 2018 included assessment scores that could have been used to rank the competing applications. This was not done. Rather, it was initially proposed by the Minister’s Office on 20 November 2018 that applications located in a ‘marginal’ or ‘targeted’ electorate be successful at a significantly higher rate (114 applications or 17 per cent) than the remaining applications (82 applications or seven per cent). The applications that the Minister’s Office was proposing be successful were not those assessed as having demonstrated the greatest merit in terms of the published program guidelines. This was particularly the case for projects located in a ‘marginal’ or ‘targeted’ electorate (see Table 3.2).

**Table 3.2: Applications proposed for approval as at 20 November 2018**

Assessment score band	Projects in ‘marginal’ and ‘targeted’ electorates	Projects in other electorates	Total projects proposed for approval
90 or more	8	14	22
80 to 89	44	54	98
70 to 79	34	9	43
60 to 69	28	5	33

## 5. Make the rort worse with each round

Having worked out how to rort the grants, McKenzie’s office then applied their knowledge to ramp up the rorting in the two rounds that followed the initial approvals.

The ANAO’s dry analysis demonstrates how the office got better at rorting. In the first round, “91 (41%) of the approved projects were not on the list of 426 endorsed by the Sport Australia board”. In the second round, the figure was 70%. In the third round, it was 73%.

That is, as the 2019 election neared, nearly three-quarters of money handed out in the third round of a \$100 million program was done so on the basis that it helped the Coalition — not whether the grant applications were worthwhile.

In the history of rorted grants on both sides of politics, Bridget McKenzie and her office stand out as the most blatant of all. They assiduously and forensically worked out the best way to funnel taxpayer money to help the Coalition win. They picked an agency outside the rules, they ignored laws they impeded them, and simply overrode merit-based assessment to look after themselves. And they didn’t — and don’t — care who knew.

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## McKenzie's magic maths: numbers show how badly government rorted sports grants

BERNARD KEANE



*Minister for Agriculture (former Minister for Sport) Bridget McKenzie and Prime Minister Scott Morrison (Image: AAP/Marc Tewksbury)*

In its dissection of how Nationals minister Bridget McKenzie and her office essentially directed funds from the Community Sport Infrastructure Program to the Coalition's re-election strategy, the [Australian National Audit Office](#) (ANAO) has crunched the numbers from every possible angle.

It is authoritative in its assessment that “the award of funding reflected the approach documented by the minister's office of focusing on ‘marginal’ electorates held by the Coalition as well as those electorates held by other parties or independent members that were to be ‘targeted’ by the Coalition at the 2019 election”.

It also lays out the maths to prove it.

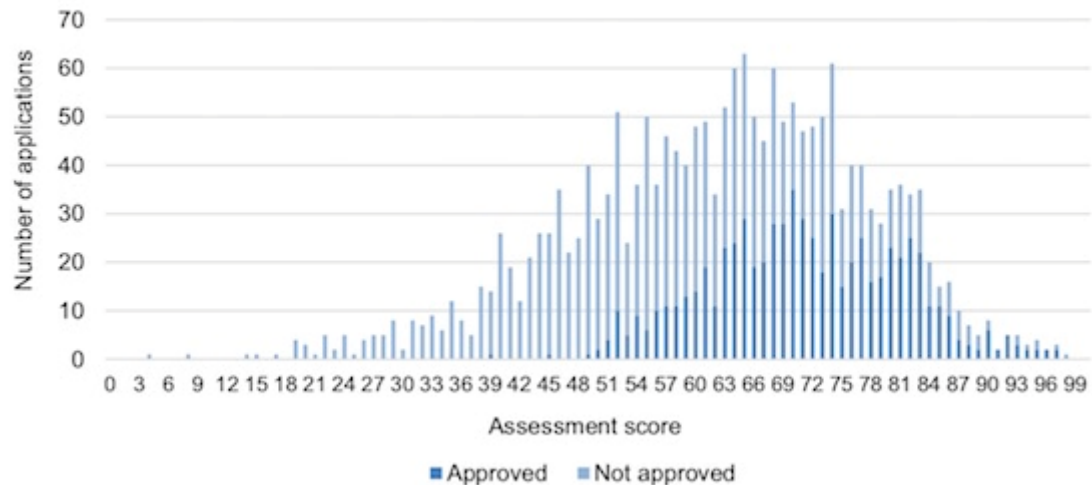
Government grants programs, typically, come with guidelines that tell applicants — and taxpayers — not just what to apply for and when (although the deadline requirement was overridden by McKenzie's office) but the criteria against which they'll be judged to ensure taxpayers get value for money.

One of the ways the ANAO is able to show how blatantly McKenzie's office rorted the program for partisan purposes is by using the Australian Sports Commission's independent assessment of the applications using the criteria identified in its

guidelines — an assessment that McKenzie’s office specifically blocked the commission from sending to it.

Comparing the commission’s assessment to what McKenzie approved for funding provides a stark contrast, which the ANAO renders in graphical form:

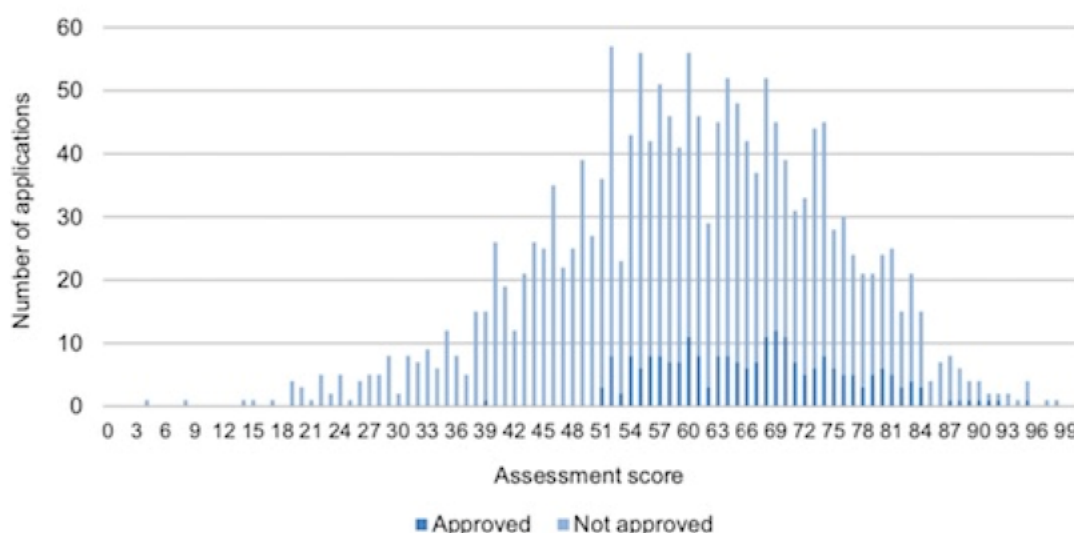
**Figure 4.3: Total merit score: approved and not approved applications**



Projects that were independently assessed at 90 or above out of a maximum 100 score by the commission were overlooked in favour of programs that ranked below 60, even below 50. One project (the ANAO doesn’t identify individual grants) that only scored 40, and which had been submitted after the closing date, but which McKenzie’s office demanded be included, was funded ahead of dozens of projects that scored more than twice that.

And it got worse as McKenzie’s office became bolder in their sorting. As the rounds went by, the “projects funded versus projects assessed” graph shifted to the left on the scale of quality assessment. By round three, scores of applications assessed above 70 were routinely ignored in favour of projects below 50.

**Figure A3.3: Third funding round**



McKenzie’s staff tried to defend themselves to the ANAO by offering a breakdown of funding by electorates that showed Labor electorates did comparatively well. But this ignores that they were targeting marginal Labor electorates, which along with marginal Coalition and independent-held electorates (like Rebekha Sharkie’s Mayo, where the whole rort came to light) did much better than others.

The ANAO rips the argument to shreds, noting:

“ There were 417 applications that were approved for funding with assessment scores below the threshold that would have applied if decisions had reflected the assessed merit of the competing eligible applications. The significant majority of these applications (71% of the number of applications and 74% of the funding) were in Coalition electorates or ‘targeted’ electorates.

The emphasis on seats targeted by the Coalition election campaign meant that safe Coalition seats also missed out. “Projects located in Safe and Fairly Safe Coalition-held electorates received 14% less funding than if funding had been awarded on the basis of assessed merit,” the ANAO explains.

In contrast, “‘target’ projects that were located in electorates held by the Australian Labor Party received a similar amount to what they would have received had funding been awarded on the basis of assessed merit”.

Even so, it looks as though partisan rancour still drove McKenzie’s staff: “nine of the ten electorates that received the least funding were held by Labor”.

Figures, graphs, comparisons, breakdowns — the ANAO shows with mathematical certainty how a minister and a pack of political staffers abused \$100 million in taxpayer funds to get themselves re-elected.

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## POLITICS

**How the Department of Health  
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sports rorts ■**

## JUSTICE

**Bad sports: were McKenzie's rorts  
unconstitutional from the get-go? ■**

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## How the Department of Health struggled to distance itself from sports rorts

**BERNARD KEANE**



*(Image: AAP/Lukas Coch)*

A key participant in the sports rorts scandal has so far received little attention: the Department of Health, which oversees the Australian Sports Commission and which was Bridget McKenzie's advising department in her role of sports minister in 2018.

It's clear from the [auditor-general's examination](#) of the Community Sport Infrastructure Grants Program that the department played an important role in facilitating McKenzie's abuse of the \$100 million program — but also wanted to stay as far as possible from it.

As Crikey revealed yesterday, the Department of Health, along with the Infrastructure Department, should have been the agency administering the program. It was already providing grants under sports programs around the country, and was one of the first departments to join the whole-of-government “Grantconnect” grant delivery platform. But the government wanted an agency not bound by grants guidelines, and which did not use Grantconnect. That was the Sports Commission, an independent Commonwealth corporate entity. Health still had a role. The commission was not hooked up to the ministerial paper system through which briefings and correspondence are shuttled back and forth from bureaucrats to the minister’s office, so the department had to receive and then send on the commission’s paperwork to McKenzie.

But Health’s sports area also worked with the commission on developing the guidelines for the program and one of its officers sat on a review panel that examined the commission’s assessment of the first round of applications. And Secretary of the Department of Health Glenys Beauchamp is also a board member of the commission.

Beauchamp, by the way, announced her retirement today. Her last day in the position will be right before the next round of Senate estimates commences, which means she won’t be able to be questioned about the program.

Most of all, Health played the role of enforcer for McKenzie’s demands that she be given control of the program. When McKenzie’s office demanded a blank application form for the third round of grants so it could organise its own application, the commission hesitated, but Health told them to hand it over, saying “it was for the Minister to then decide how it will be used”. And while the guidelines were being developed, the Australian National Audit Office (ANAO) says, “the Department of Health reminded Sport Australia that the Minister wanted to approve CSIG funding”.

The commission, which operates under its own act, had noted in June 2018 that *it* had to approve the grants, rather than the minister. The minister *could* direct the commission, under Section 11 of the act, on their approval. But if McKenzie was going to direct the commission, she would first have to discuss it with the commission, then table the direction in parliament — the worst kind of publicity for a porkbarreller.



There was also a legal issue about using Section 11. Most ministers have some sort of “directions power” over agencies in their portfolios, but how detailed can those directions be? The *Australian Sports Commission Act* says the minister can direct the commission “with respect to the policies and practices to be followed by the commission in the performance of its functions, and the exercise of its powers, and the commission shall comply with the directions”.

Did that mean McKenzie could direct the commission about how to allocate individual grants? Or to delegate to her the power to decide? Legal advice would be needed on how to use the Section 11 power to enable McKenzie to control the grants. But what if the advice came back that Section 11 didn’t allow her to control something as specific as a grant allocation process, or placed some procedural hurdle on it?

An important rule in the public service is never ask for legal advice unless you know what you’re going to get. This was a classic example: Health’s lawyers or the Australian Government Solicitor might indicate that McKenzie couldn’t control the grants. And once advice is provided, it can’t be unprovided. It will sit there on file, waiting for an auditor to find it down the track. So it’s best not to ask for it. That’s what Health did. “The Department of Health advised the ANAO in November 2019 that this legal advice was not sought.”

But that left Health with a problem. The commission said it had to allocate the grants. Health had told the commission that McKenzie was going to allocate the grants whether it liked it or not. But the only way to make sure that was OK — Section 11 — was both legally problematic and would draw attention. Health officials decided on Jim Hacker’s strategy of masterly inaction. “There are no records that evidence that the Department of Health or Sport Australia advised the Minister on the legal basis on which the Minister could undertake an approval role for the CSIG program.”

That’s now the attorney-general’s problem. The government is very worried about the fact that McKenzie doled out \$100 million without legal authority, especially if unsuccessful grant applicants decide to join litigation that would test that. The masterly inaction approach of Health — a quick fix to deal with the problem of a minister demanding to abort a program — may yet come back to bite the government.

If there is litigation, then McKenzie's staff may be compelled to give evidence. And it won't be the first time. The ANAO says it had to resort to using its powers of compulsion to force McKenzie's staff to give evidence to it "using the powers provided by Section 32 of the Auditor-General Act 1997 (Auditor-General Act) from two key individuals from within the Minister's Office at the time funding was awarded".

A check of ANAO audits shows the last time Section 32 powers appear to have been used on ministerial staff was during the ANAO investigation of the Godwin Grech affair, which ended up entirely exonerating Kevin Rudd, Wayne Swan and their staff. McKenzie's staff have had quite a different outcome.

Health's response to the audit was brief. "The Department of Health notes there are no recommendations directed to the department". Its response to detailed questions from *Crikey* was almost as brief. "The Australian Sports Commission (Sport Australia) rather than the Department of Health was responsible for the administration of the Community Sport Infrastructure Program and the provision of advice to the Minister," a spokesperson said. "Sport Australia has acknowledged the report prepared by the Australian National Audit Office, accepts the Auditor-General's three recommendations in the report that relate specifically to them and is already acting to implement the recommendations."

Health seems to want to keep as far as possible from the program. But it can't heap all the blame on the Sports Commission. There may yet be consequences from the legal issues it decided to overlook.

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## Bad sports: were McKenzie's rorts unconstitutional from the get-go?

MICHAEL BRADLEY



*(Image: AAP/James Ross)*

The \$500,000 that Bridget McKenzie gifted to the Mosman Rowing Club has been spent, along with the rest of the \$100 million that she, how can I put this delicately, ah yes, seized from public funds and stuffed into marginal pork barrels.

The apparent bare-faced corruption and basic illegality of the exercise aside, the sports rorts affair raises another, bigger problem: a constitutional one.

Professor Anne Twomey casually dropped into her conversation this week the question of whether the federal government had any power at all to spend one cent of the Commonwealth Sports Infrastructure Grants Program. The implications of that go wide.

I'll try to do this non-tediously (constitutional law being a frequently fatal conversation topic). It is kind of important to have a basic understanding of how the Australian federation works.

The basic fact is that the Australian constitution is the only source of the Commonwealth parliament's power to make laws, and the executive government's power to implement them. Anything that the constitution doesn't cover is left to the states.

The constitution has a shopping list of subject matter areas that it gives to the Commonwealth for legislating, including some obvious ones (foreign affairs, defence, currency) and some oddities ("the influx of criminals").

Because it was written in 1900, it left out some biggies, such as aviation and space exploration, but accidentally included others (the internet is caught as a “like service” to telephony). Point is, it’s a bit random and sometimes anachronistic, but it is also definitive.

For a long time, it was thought that the federal government might have much broader powers in between the lines of the constitution, but that was shut down by the High Court in a series of cases about a decade ago.

Most famously, the court ruled in 2012 that the Commonwealth did not have power on any basis to maintain the program set up by the Howard government to directly fund schools to pay for the provision of school chaplains.

A parent was aggrieved that his children’s school was collecting federal money to provide a religious service that he didn’t want his kids to receive, and took the government to the High Court twice, winning both times.

The court agreed with his central argument: the government had no power given by the constitution to spend its money on school chaplains. As the constitution hadn’t given the power, it didn’t exist. That made the whole program illegal.

The government (by then under Tony Abbott) quickly channelled the money into an indirect program instead, under which it gives it to the states on condition that they spend it on chaplains. Call it coercive federalism.

Back to the present, then, and Twomey’s point, which is that the constitution also contains no words that suggest the Commonwealth government has a power to make laws or spend money in relation to sport.

There are 38 specific powers in the constitution, and none of them relates in any way to the resurfacing of tennis courts, [installation of solar panels on the Royal Adelaide Golf Clubhouse](#) or the [new toilets at the Wangaratta Clay Target Club](#), which happens to be in McKenzie’s own electorate.

Pretty simply, the government does not have any power to make a law with respect to sport. Actually, come to think of it, I’m not even sure that it had power to pass the *Australian Sports Commission Act* that created Sport Australia and the Australian Institute of Sport in the first place.

But of immediate relevance, the government has no power to appropriate funds and give them to sporting organisations.

The same question mark hangs over a huge raft of federal government funding programs, such as the money it gives to the arts and the environment.

There is a recognised power, outside the specific shopping list, called the “nationhood power”, which recognises that the federal government performs a national function and needs to be able to do things that no state government could effectively do. An example might be that of pumping urgent stimulus into the economy in the face of a global financial crisis.

That’s not relevant to the sports grants program, unless one could argue that obesity is a crisis sufficiently existential to warrant federal intervention. Still, hard to argue that one golf club’s need to renovate its foyer and attract more wedding bookings (for which it was slung \$190,000 by McKenzie) qualified as a response to a national emergency.

In practical reality, the government is unlikely to face constitutional challenge for the simple reason that nobody who would like to be a beneficiary of the pork-barrelling rorts of the future will be lining up to sue the ham supplier because they missed out this time around.

As the president of the Applecross Tennis Club was happy to say, in respect of the \$500,000 his club received to upgrade its courts on the foreshore of Perth’s Swan River, “it’s only a rort if you are not in it.”

Or, as I like to say, justice may be blind but corruption wears night vision goggles.

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## New Auditor-General report

The following Auditor-General report has been tabled by the Parliament, and is now available on the Australian National Audit Office (ANAO) website.

**Auditor-General Report No.23 (2019–20)**

### **Award of Funding under the Community Sport Infrastructure Program**

**Tabled:** Wednesday 15 January 2020

The objective of the audit was to assess whether the award of funding under the Community Sport Infrastructure Program was informed by an appropriate assessment process and sound advice.

**View the report on our website**

<https://www.anao.gov.au/work/performance-audit/award-funding-under-the-community-sport-infrastructure-program>

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#### **Award of Funding under the Community Sport Infrastructure Program**

Report tabled in the Parliament of Australia on Wednesday 15 January 2020 and is now available on our website

Posted Wednesday 15 January 2020 at 1:46 pm – [View on the ANAO website »](#)

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### Award of Funding under the Community Sport Infrastructure Program

**Report tabled in the Parliament of Australia on Wednesday 15 January 2020 and is now available on our website**

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