

Chapter 1

Introduction

1.1 This is the first report on annual reports for 2020 of the Senate Environment and Communications Legislation Committee (the committee). It provides an overview of selected annual reports of agencies within the allocated portfolios tabled in the Senate between 1 May and 31 October 2019.

1.2 Annual reports inform the Parliament, stakeholders and other interested parties of the operations and performance of public sector departments, agencies and companies. They are a primary accountability mechanism. Additionally, annual reports are important reference documents and form part of the historical record of the Commonwealth.

Terms of reference

1.3 Under Standing Order 25(20), the annual reports of certain departments and agencies are referred to the committee for examination and assessment. The committee is required to:

- (a) Examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory.
- (b) Consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration.
- (c) Investigate and report to the Senate on any lateness in the presentation of annual reports.
- (d) In considering an annual report, take into account any relevant remarks about the report made in debate in the Senate.
- (e) If the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates.
- (f) Report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.
- (g) Draw the attention of the Senate to any significant matters relating to the operations and performance of the bodies furnishing the annual reports.
- (h) Report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

Allocated portfolios

1.4 In accordance with the resolution of the Senate on 4 July 2019, the committee had oversight of the following portfolios during the reporting period:

- Environment and Energy; and
- Communications and the Arts.¹

1.5 On 8 August 2019, following an amendment to the Administrative Arrangements Orders (AAOs), Old Parliament House transferred from the Communications and the Arts portfolio to the Prime Minister and Cabinet portfolio. Accordingly, the Old Parliament House Annual Report for 2018-19 will be examined by the Senate Finance and Public Administration Legislation Committee.

Reports examined

1.6 This report examines the following reports, tabled in the Senate or presented out-of-session to the President of the Senate and referred to the committee between 1 May and 31 October 2019:

Non-corporate Commonwealth entities

- Department of Communications and the Arts—Annual Report for 2018-19;
- Department of the Environment and Energy—Annual Report for 2018-19;
- Australian Communications and Media Authority and the Office of the eSafety Commissioner—Annual Report for 2018-19;
- Bureau of Meteorology—Annual Report for 2018-19;
- Clean Energy Regulator—Annual Report for 2018-19;
- Climate Change Authority—Annual Report for 2018-19; and
- Great Barrier Reef Marine Park Authority—Annual Report for 2018-19.

Corporate Commonwealth entities

- Australia Council for the Arts—Annual Report for 2018-19;
- Australian Broadcasting Corporation—Annual Report for 2018-19;
- Australian Film, Television and Radio School—Annual Report for 2018-19;
- Australian National Maritime Museum—Annual Report for 2018-19;
- Australian Postal Corporation—Annual Report for 2018-19;
- Australian Renewable Energy Agency—Annual Report for 2018-19;

1 *Journals of the Senate*, No. 3, 4 July 2019, pp. 83–84. See also, *Journals of the Senate*, No. 42, 13 February 2020, pp. 1268–1269 for the allocation of agencies following the Administrative Arrangements Order made on 5 December 2019, with took effect from 1 February 2020. These changes will be discussed in the committee's report on 2019-20 annual reports.

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- Clean Energy Finance Corporation—Annual Report for 2018-19;
 - Director of National Parks—Annual Report for 2018-19;
 - National Film and Sound Archive of Australia—Annual Report for 2018-19;
 - National Gallery of Australia—Annual Report for 2018-19;
 - National Library of Australia—Annual Report for 2018-19;
 - National Museum of Australia—Annual Report for 2018-19;
 - National Portrait Gallery of Australia—Annual Report for 2018-19;
 - Screen Australia—Annual Report for 2018-19;
 - Special Broadcasting Service Corporation—Annual Report for 2018-19; and
 - Sydney Harbour Federation Trust—Annual Report for 2018-19.

Commonwealth companies

- Australia Business Arts Foundation Limited (Creative Partnerships Australia)—Annual Report for 2018-19;
- Bundanon Trust—Annual Report for 2018-19;
- NBN Co Limited—Annual Report for 2018-19; and
- Snowy Hydro Limited—Annual Report for 2018-19.

Other bodies

- Classification Board and Classification Review Board—Reports for 2018-19;
- Independent Scientific Committee on Wind Turbines—Report for 2018;
- National Environment Protection Council—Report for 2017-18;²
- Office of the National Wind Farm Commissioner—Report for 2018; and
- Public Lending Right Committee—Report for 2018-19.

Reports not examined

1.7 The committee is not obliged to report on Acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata. The following documents were referred to the committee between 1 May and 31 October 2019 but are not examined in this report:

- Australian National Maritime Museum—Corporate plan 2019–23;

2 The National Environment Protection Council (NEPC) annual report was tabled in accordance with section 24 of the *National Environment Protection Council Act 1994*. This requires the NEPC to report its operations during the year ended on the preceding 30 June. This legislative requirement means that the report covers the 2017-18 financial year rather than the 2018-19 reporting period.

- Clean Energy Regulator—Renewable Energy Target administrative report for 2018;
- Climate Change Authority—Review of the National Greenhouse and Energy Reporting legislation—Final report, dated December 2018 and Government response, dated August 2019;
- Final budget outcome 2018-19—Report by the Treasurer (Mr Frydenberg) and the Minister for Finance (Senator Cormann), dated September 2019;
- *Great Barrier Reef Marine Park Act 1975*—Great Barrier Reef outlook report for 2019; and
- *Greenhouse and Energy Minimum Standards Act 2012*—Independent review of the Act—Final report, dated June 2019.

Annual reporting requirements

1.8 A performance reporting framework is established for all Commonwealth entities and companies by the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The performance framework is based on section 38 of the PGPA Act which requires all Commonwealth entities to measure and assess their performance according to the requirements prescribed by the rules.

1.9 The performance framework includes the requirement for Commonwealth entities to prepare a corporate plan and annual performance statements. The Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) contains the minimum requirements that must be included.

1.10 Section 39 of the PGPA Act requires all Commonwealth entities to prepare an annual performance statement and include those statements in their annual reports. Entities use the annual performance statements to report on the results achieved against the targets, goals and measures established at the beginning of a reporting year in corporate plans and in any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement, that were prepared for the reporting period.

1.11 Below is a summary of the legislative authority and requirements for the different types of bodies under which annual reports are prepared:

- Non-corporate Commonwealth entities: PGPA Act, section 46, and the PGPA Rule, Division 3A(A); for portfolio departments and executive agencies, and for statutory bodies, relevant enabling legislation.
- Corporate Commonwealth entities: PGPA Act, section 46, and the PGPA Rule, Division 3A(B); and for statutory bodies, relevant enabling legislation.
- Commonwealth companies: PGPA Act, section 97, which also refers to requirements under the *Corporations Act 2001* and the PGPA Rule, Part 3-3; and for statutory bodies, relevant enabling legislation.

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- Non-statutory bodies: the annual reporting requirements are contained in the government response to the Senate Standing Committee on Finance and Public Administration's Report on Non-Statutory bodies.³

Changes to the PGPA Rule

1.12 In April 2019, the Minister for Finance amended the PGPA Rule which affected the annual reporting obligations for Commonwealth entities and companies. The amendments implemented a number of recommendations from the *Independent Review into the Operation of the PGPA Act and Rule*⁴ and commenced in the reporting period that began on or after 29 June 2018.

1.13 The annual reports of Commonwealth entities are now required to include additional remuneration disclosures for three staffing categories: key management personnel; senior executives; and other highly paid staff. In addition, Commonwealth entities must also disclose their executive remuneration policies and practices, including the governance arrangements under which those operate and the basis on which executive remuneration has been determined.⁵

1.14 Commonwealth companies are only required to include information in relation to key management personnel.⁶ The change does not affect the reporting of key management personnel information in company financial statements in accordance with the requirements of the *Corporations Act 2001*.

1.15 The amendments also require Commonwealth entities and companies to publish annual reports on the Australian Government's transparency portal: www.transparency.gov.au. This includes additional statistics on all employees of an entity or company, information on the accountable authority for non-corporate entities, as well as the inclusion of compliance index templates for corporate Commonwealth entities and companies, in a structure similar to the existing compliance index for non-corporate Commonwealth entities.⁷

3 *Senate Hansard*, 8 December 1987, pp. 2632–45.

4 Department of Finance, *Independent review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule*, September 2018.

5 Public Governance, Performance and Accountability Amendment (Reporting Executive Remuneration) Rules 2019, Explanatory Memorandum, pp. 1–11.

6 Department of Finance, *Resource Management Guide No. 139 – Commonwealth companies Executive Remuneration Reporting Guide for Annual Reports*.

7 Public Governance, Performance and Accountability Amendment (Annual Reporting) Rules 2019, Explanatory Memorandum, pp. 1–4.

Timeliness

1.16 As part of its review of annual reports, the committee is required to investigate and report on any lateness in the presentation of annual reports.⁸ In assessing the timeliness of the presentation of annual reports, the committee assesses the presentation against the requirements of the PGPA Act, the PGPA Rule and other legislative requirements.

Presentation to ministers

1.17 Section 46 of the PGPA Act requires the provision of an annual report of a Commonwealth entity, including corporate and non-corporate entities, to the responsible minister by the 15th day of the fourth month after the end of the reporting period for the entity. For most agencies this translates to 15 October each year. This part of the PGPA Act does not, however, provide a timeframe for the minister to present the report to the Parliament.

1.18 The arrangements for Commonwealth companies differ to some degree. Section 97 of the PGPA Act sets out the requirements for the provision of annual reports of Commonwealth companies to the responsible minister. In general, this amounts to four months after the end of the reporting period for each company.⁹

Tabling in Parliament

1.19 The PGPA Rule states that annual reports for corporate Commonwealth entities, non-corporate Commonwealth entities and Commonwealth companies must comply with the guidelines for presenting documents to the Parliament.¹⁰ In addition, the Department of Finance's Resource Management Guides for corporate and non-corporate Commonwealth entities advise:

It has been practice for the responsible Minister to present the report to each house of the Parliament on or before 31 October. If Senate Supplementary Budget Estimates hearings are scheduled to occur before 31 October, Ministers have sought to table annual reports prior to those hearings.¹¹

8 Standing Order 25(20)(c).

9 *Public Governance, Performance and Accountability Act 2013*, ss. 97(2).

10 See PGPA Rule, sections 17AB, 17BC and 28C.

11 Department of Finance, *Resource Management Guide No. 135 – Annual report for non-corporate Commonwealth entities*, May 2019, p. 11; *Resource Management Guide No. 136 – Annual report for corporate Commonwealth entities*, p. 9. In the case of a wholly-owned Commonwealth company, or a Commonwealth company that is not required to hold an annual general meeting, the PGPA Act states that "the responsible Minister must table the documents in each House of the Parliament as soon as practicable after receiving them. In all other cases, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after the annual general meeting of the company" (*Public Governance, Performance and Accountability Act 2013*, ss. 97(5)).

1.20 Entities reporting in accordance with their own legislation are often required to prepare for the relevant minister their annual report 'as soon as is practicable' after the end of the particular period to which the report relates. The committee draws attention to subsections 34C(2) and 34C(3) of the *Acts Interpretation Act 1901*, which stipulate that where no date for providing a report to a minister is specified, the report should be presented no more than six months after the reporting period, and the minister must provide the report to the Parliament within 15 days after the minister receives it.

1.21 Where a deadline for presenting an annual report cannot be met, a Commonwealth entity or company can seek an extension of time to report under the *Acts Interpretation Act 1901*, by advising the responsible minister of the reasons why the entity cannot comply with the deadline. The responsible minister is required to table this application and a statement specifying whether the extension was granted and the reasons for the extension in both houses of the Parliament.¹²

Timeliness of reports examined

1.22 In its *Annual reports (No. 1 and No. 2 of 2019)* tabled in July 2019, the committee commented that the majority of annual reports for Commonwealth entities within its allocated portfolios did not meet the recommended timeframe for the tabling of annual reports prior to the commencement of the October 2018 Supplementary Budget Estimates.¹³

1.23 In July 2019, the committee wrote to all departments and agencies in the Communications and the Arts and Environment and Energy portfolios reminding them to table their annual reports in Parliament within a reasonable timeframe for the committee to consider the content of the reports prior to the commencement of Supplementary Budget Estimates.

1.24 The committee notes that the majority of agencies met the recommended timeframe for tabling annual reports prior to the commencement of the committee's Supplementary Estimates hearings on 21 October 2019. The committee also notes that eight agencies, listed in Appendix 1, did not meet the recommended timeframe.¹⁴

1.25 Overall, the committee welcomes this improved timeliness in tabling annual reports and thanks both departments and all associated agencies that provided their annual reports prior to the committee's hearings. The committee further encourages all agencies to follow best practice in the future by ensuring that their annual reports are

12 *Acts Interpretation Act 1901*, ss. 34C(6).

13 Senate Environment and Communications Legislation Committee, *Annual reports (No. 1 and No. 2 of 2019)*, pp. 9–11.

14 Appendix 1 lists the relevant tabling dates for annual reports in the Senate and the House of Representatives between 1 May and 31 October 2019.

tabled prior to its Supplementary Estimates hearings, which in 2020 are due to commence on 19 October.

1.26 Appendix 1 lists the annual reports tabled (or presented) in the Senate and the House of Representatives between 1 May and 31 October 2019 and referred to the committee, with relevant tabling dates.

1.27 Appendix 2 lists documents tabled (or presented) in the Senate and House of Representatives between 1 May and 31 October 2019 and referred to the committee, with relevant tabling dates.

Senate debate

1.28 In accordance with Standing Order 25(20)(d), the committee is required to take into account any relevant remarks about annual reports made in debate in the Senate. None of the annual reports examined in this report were the subject of Senate debate.

Non-reporting bodies

1.29 Standing Order 25(20)(h) requires that the committee report on any bodies which do not present annual reports to the Senate but should present such reports. The committee notes that there are no relevant bodies which are required to present an annual report to the Senate which have not done so.

Apparently satisfactory

1.30 Standing Order 25(20)(a) requires that the committee report to the Senate on whether the annual reports of departments and agencies in its portfolios are 'apparently satisfactory'. In making this assessment, the committee considers such aspects as timeliness of presentation and compliance with relevant reporting requirements.

1.31 The committee reminds all agencies to ensure that they include a complete and up-to-date compliance index in their annual reports. For Commonwealth entities, this must include a list of requirements as specified by the PGPA Rule and where those requirements are to be found in the annual report. This is an important element of accountability and the committee expects all relevant portfolio agencies to ensure that this information is reported consistently.

1.32 The committee has examined all annual reports referred during the reporting period and considers that they are 'apparently satisfactory'.