

Chapter 2

The National Commission of Audit's Processes

Introduction

2.1 The commission's terms of reference set out the following context for the establishment of the commission:

It is almost 20 years since there has been a thorough review of the scope, efficiency and functions of the Commonwealth government. During this time the size of the Commonwealth government has expanded significantly, as has the remit of some of its activities...

It is therefore timely that there should be another full-scale review of the activities of the Commonwealth government...¹

2.2 Given the 'full-scale review' which the commission is undertaking, it is important that the commission's processes are transparent and that it has sufficient time to undertake its significant task.

Lack of transparency

2.3 One of the major concerns which the committee has in regards to the operation of the commission is a lack of transparency about the focus of its work and its processes.

2.4 On the issue of transparency, Mr Shepherd informed the committee that 'transparency will come through the government and parliamentary process'.²

2.5 The committee questioned the commission on several aspects of its work, including:

- additional guidance or instructions, aside from the terms of reference, provided by the government to the commission;
- the commission's processes for analysing submissions and meeting with key stakeholders; and
- processes for identifying and addressing commissioner's conflicts of interest.

Guidance from government

2.6 The committee sought to establish the parameters of the commission's work, and in particular, whether there was any other material, apart from the terms of reference that the government had provided to guide the work of the commission.

2.7 In response to questioning from the committee chair, Mr Shepherd emphasised that the commission is guided only by the terms of reference and there had been no other instructions, correspondence or guidance from the government:

1 National Commission of Audit, Terms of Reference, p. 1.

2 *Proof Committee Hansard*, 15 January 2014, p. 5.

CHAIR:...[I]s it safe to say that the terms of reference is the central document guiding the work of the commission?

Mr Shepherd: Yes, that is our guide.

CHAIR: Do you have any other riding instructions from government?

Mr Shepherd: No, we have no other riding instructions from government. In fact, they have made it clear that we are to follow the terms of reference and there are no no-go areas.

CHAIR: Do you have any correspondence from government that may give effect to that?

Mr Shepherd: Other than the terms of reference, no.³

2.8 However, subsequent information provided by the commission during the hearing caused the committee to doubt these assurances. Members of the committee referred to a statement in a media article in which the Minister for Finance (Minister), Senator the Hon Mathias Cormann, indicated that the government's public sector jobs policy 'would now be handed to the Coalition's commission of audit',⁴ and asked how this request was conveyed to the commission.

2.9 Mr Shepherd stated that the commission had 'not received a specific request' from the Finance Minister to review the public sector.⁵ Mr Crone then drew the committee's attention to correspondence addressed to Mr Shepherd from the Minister and the Treasurer:

I will just jump in there to clarify. I believe that, around the time the Mid-Year Economic and Fiscal Outlook [MYEFO] was being prepared, material came to light about the job losses associated with previous government decisions about efficiencies, which established that there may be something like 14,000. Subsequent to that, the Treasurer and the Minister for Finance wrote to the commission, drawing that to our attention—⁶

2.10 A copy of the letter, dated 21 November 2013, was tabled by Mr Shepherd, and is included at Appendix 3 of this report.

2.11 Initially, Mr Shepherd stated that he was 'not aware of that [letter]'.⁷ Subsequently, Mr Shepherd explained that he had not intentionally meant to mislead

3 *Proof Committee Hansard*, 15 January 2014, p. 3.

4 *Proof Committee Hansard*, 15 January 2014, p. 11. See also Noel Towell and Hamish Boland-Rudder, 'Labor's public service job cuts could hamper Coalition's plan to slash', *Sydney Morning Herald*, 19 November 2013, available at: www.smh.com.au/national/public-service/labors-public-service-job-cuts-could-hamper-coalitions-plan-to-slash-20131119-2xrxj.html (accessed 20 January 2014).

5 *Proof Committee Hansard*, 15 January 2014, p. 11.

6 *Proof Committee Hansard*, 15 January 2014, p. 11.

7 *Proof Committee Hansard*, 15 January 2014, p. 11.

the committee, but that he did not read the letter as a direction from the government but as guidance on the government's approach to public sector resourcing:

This was not a direction. It was drawing our attention to the statement that was made at the time of MYEFO.⁸

...

I am not aware of any other correspondence [from the government]. I did not regard that [letter] as a direction, but it had completely slipped my mind and, if I had recalled it, I would have mentioned it.⁹

...

It was about [the government's] approach rather than providing guidance as to the approach that [the government] wanted us to take. I saw that as providing guidance on their approach.¹⁰

2.12 On notice, the committee asked the commission to provide any other correspondence from ministers or other members of the government that could be read as instructions to the commission.

2.13 In its reply to questions on notice, the commission stated that it had only received two letters from Ministers and members of the government.

2.14 The first of these was the letter from Minister Cormann tabled at the 15 January 2014 hearing, which has already been discussed.

2.15 The second was a letter dated 27 November 2013 to the commission from the Minister for Health, the Hon Peter Dutton MP. This letter informed the commission of the discontinuation of funding to the Alcohol and Other Drugs Council of Australia, based on 'the duplication of roles of peak bodies in the drugs and alcohol sector'.¹¹ This letter was provided to the committee as part of the commission's answers to questions on notice, and can be found at Appendix 4.

Commission processes

2.16 The commission's processes to gather and analyse information is another area which lacks transparency. Therefore, the committee questioned the commission on this work from which its recommendations will be developed.

Submissions

2.17 As noted above, the commission has received over 300 submissions 'from a wide spectrum of the community'.¹² In terms of who is reading the submissions, Mr Crone provided the following information:

8 *Proof Committee Hansard*, 15 January 2014, p. 11.

9 *Proof Committee Hansard*, 15 January 2014, p. 12.

10 *Proof Committee Hansard*, 15 January 2014, p. 13.

11 National Commission of Audit answers to questions on notice, 15 January 2014 (received 31 January 2014).

12 Mr Tony Shepherd, *Proof Committee Hansard*, 15 January 2014, p. 2.

Various members of the secretariat [read the submissions]. I read a large number myself. The five [Senior Executive Service] officers within the Commission of Audit looked at them, and they were also farmed down to individuals within the secretariat. They all went through them, so they have had a good look. Some of them were provided to commissioners. Commissioners asked for some of them. That has been the process.¹³

2.18 In terms of which submissions are provided to the commissioners, Mr Crone stated:

In some instances, the commissioners have requested them themselves; in others, a commissioner might have been oversighting a piece of work in this area and it was of relevance to them. It was really a matter of judgement for the senior officers involved.¹⁴

2.19 The committee also sought further information from the commission on its processes for considering submissions:

Mr Shepherd: Each submission is evaluated and reported on by the secretariat. We can then consider the ideas that come from that and their value in terms of what we are considering.

CHAIR: What is the process the secretariat uses for weighting particular submissions against others?

Mr Shepherd: They look at them carefully against our terms of reference.

Mr Crone: The submissions tend to stand on their own quality. There were some very, very good submissions, I would have to say...There are some which, not unexpectedly—I will not mention them—really seem to stress the self-interest or the particular interest. We appreciated that. Some good ideas came up in some submissions. In a couple of instances, Mr Shepherd and I had follow-up meetings directly—for example, with ACOSS [the Australian Council of Social Services].¹⁵

2.20 In response to questions from the committee on what make a 'good' submission, or what makes 'some submissions stand out from others', Mr Crone noted:

I think the predominant issue is that a submission is prepared to look at the national interest.¹⁶

2.21 Mr Crone referred to the fact that the commission has not published the submissions that it has received, although some submissions are publically available from other sources:

Some people who put their submissions in have subsequently chosen to publish them on their website, which is fine.¹⁷

13 *Proof Committee Hansard*, 15 January 2014, p. 40.

14 *Proof Committee Hansard*, 15 January 2014, p. 40.

15 *Proof Committee Hansard*, 15 January 2014, p. 18.

16 *Proof Committee Hansard*, 15 January 2014, p. 23.

17 *Proof Committee Hansard*, 15 January 2014, p. 18.

2.22 Mr Shepherd confirmed that there is no prohibition on an individual or organisation releasing their submission and that it is 'entirely up to them'.¹⁸

2.23 The committee asked the commission whether it would consider listing all the submissions it had received, aside from those submitters requesting confidentiality, on the commission's website. Mr Shepherd conceded that this was 'a fair question' and took it on notice to consider whether it is possible.¹⁹

2.24 In its answers to questions on notice, the commission provided a list to the committee of 274 public submissions received, which included a note that a small number of organisations had made more than one submission. This list is at Appendix 5. However, the commission did not address the question on notice to consider placing public submissions on its website.²⁰

2.25 Criticisms of the commission's processes were raised in evidence to the committee. The Australian Council of Trade Unions (ACTU) was concerned about the lack of openness and transparency:

Commonwealth finances are a matter of concern to us all. How we raise money and how we spend it is important to us all. If you are going to have a process which involves setting policy for the future in a way that the public has confidence in, you need to have not only an open and transparent process but one in which more voices than just big business are heard. We have been critical that, in essence, this commission of audit has involved an outsourcing of public policy to very big business. They are important, but they are not the only people who are entitled to a voice in these matters.²¹

2.26 The ACTU compared the lack of transparency of the commission's work to other government processes such as the Henry Tax Review or inquiries undertaken by the Productivity Commission where issues papers were put out for public comment, resulting in 'feedback, comment and genuine debate about individual proposals'. Mr Tim Lyons, Assistant Secretary, stressed that the processes adopted by the commission do not involve the views of the community.²²

2.27 This was supported by evidence given by Mr Ian McAuley, Adjunct Lecturer, University of Canberra, who also referred to the processes of the Productivity Commission and drew out not only what a good, consultative process might look like, but also the dangers of a process that was too opaque:

...My observations of good process come from observing bodies like the Productivity Commission, which will issue a discussion paper, call for submissions and will have public inquiries. Those public inquiries are

18 *Proof Committee Hansard*, 15 January 2014, p. 25.

19 *Proof Committee Hansard*, 15 January 2014, p. 18.

20 National Commission of Audit, answers to questions on notice, 15 January 2014 (received 31 January 2014).

21 Mr Tim Lyons, *Proof Committee Hansard*, 5 February 2014, p. 12.

22 Mr Tim Lyons, *Proof Committee Hansard*, 5 February 2014, p. 10.

extremely valuable because you will often hear that what looks like a good idea at the time—say, the transfer of funding of health care to private health insurance—until someone says, 'Hey, here are the unintended consequences.' The [productivity] commission then issues a draft report which is public, and then a final report, which is confidential, goes to government. Then it all gets released. Not everyone is happy with the process, but at least people realise that they have had their day in court; they have had their time to present their case. It has credibility because it is seen to be apolitical. Some people criticise the [productivity] commission, but it does outline its economic philosophy quite plainly. That is what I would call good process, and it is likely to result in the enduring change because it is seen to be legitimate.²³

Committee view

2.28 The committee is concerned that this lack of transparency makes it difficult for the public to find the information the commission is using in its deliberations. The committee believes that the commission should publish all submissions on the commission's website, unless confidentiality has been requested.

2.29 Moreover, the committee notes that the commission's website has no contact details for enquiries. This is a further obstacle to the public accessing information on the commission and its processes.

Meetings

2.30 As noted in Chapter 1, Mr Shepherd told the committee he had met with 'several premiers and most departmental secretaries, among others'.²⁴ Due to the commission's timeframes, the commission has not been able to meet with everyone who has made a submission,²⁵ however Mr Shepherd stated that, between the commissioners and the secretariat, there have 'probably' been over 100 meetings.²⁶

2.31 Mr Shepherd advised that he has met with Australian Council of Social Services (ACOSS), ACTU,²⁷ Australia Post and SBS.²⁸ Mr Shepherd informed the committee that meetings had not been held with Medibank Private, the Defence Housing Authority or the ABC.²⁹

2.32 The ACTU told the committee about its meeting with Mr Shepherd:

Yes, we did meet with Mr Shepherd, and we did have a broad-ranging discussion. But I do not think that absolves the process of the criticisms that we mount. What we had was an at-large, in-principle discussion about the

23 *Proof Committee Hansard*, 5 February 2014, p. 40.

24 *Proof Committee Hansard*, 15 January 2014, p. 2.

25 *Proof Committee Hansard*, 15 January 2014, p. 2.

26 *Proof Committee Hansard*, 15 January 2014, p. 15.

27 *Proof Committee Hansard*, 15 January 2014, p. 18.

28 *Proof Committee Hansard*, 15 January 2014, p. 15.

29 *Proof Committee Hansard*, 15 January 2014, p. 15.

circumstances of Commonwealth finances, but that is a very long way from a process that robustly considers individual significant changes to either revenue or expenditure. And the criticism we make is that if you are going to have a real process you have one whereby not only in-principle views, if you like, about the state of Commonwealth finances are considered but changes themselves that might be proposed are debated and considered against the evidence.³⁰

2.33 The committee sought clarity on the commission's process for determining which organisations or individuals it would meet with. Mr Shepherd informed the committee that the process was 'not [a] mystery or a secret':

Firstly, agencies approach us and request a meeting. Generally speaking, we do not reject that...

...

They ask for the meeting and we meet with them. That is fine.³¹

2.34 Mr Shepherd took on notice to provide details of meetings with stakeholders. However, a full list of these meetings was not provided to the committee, as requested. The reason provided by the commission was:

The Commissioners and members of the Secretariat have met with a range of stakeholders. In light of its reporting deadlines, the Commission considers that it would currently be an inappropriate diversion of resources to compile this information for the Committee by the deadline for responses.³²

Reporting deadlines and timeframes

2.35 The commission of audit was announced on 22 October 2013. Its terms of reference stipulate that it must hand an interim report to government 'by the end of January 2014' and its final report 'no later than the end of March 2014'.³³ This gives the commission just over five months in total to complete a 'full scale review of the activities of the Commonwealth government'.³⁴

2.36 Mr Shepherd acknowledged the difficulties of meeting committee requests to appear at hearings, especially considering the tight timeframes the commission has been given and the significance and size of its work:

There is a risk. There is a twofold risk there, with due respect to the committee and its request; the task that we have is very significant and the time that we have is tight. We have indicated to the Treasurer and the Minister for Finance that we may seek an extension, but we are not looking

30 Mr Tim Lyons, Assistant Secretary, ACTU, *Proof Committee Hansard*, 5 February 2013, p.10.

31 *Proof Committee Hansard*, 15 January 2014, p. 17.

32 National Commission of Audit answers to questions on notice, 15 January 2014 (received 31 January 2014).

33 National Commission of Audit, Terms of Reference.

34 National Commission of Audit, Terms of Reference.

for a substantial one. We are still targeting the end of the month and we are working towards that, but we would rather get it right than get it in on time, I will put it that way.³⁵

2.37 Some submissions received by the committee see the commission's timeframes as too ambitious.³⁶ The ACTU suggested the commission should be given between 12 and 18 months to do its work, as five months is insufficient to examine the size and scope of all of Commonwealth expenditure.³⁷ The Australian Services Union noted that the 1996 Commission of Audit was also hampered by a short timeframe in formulating its recommendations.³⁸

2.38 The ACTU, as well as Ms Jennifer Doggett, Mr Ian McAuley and Mr John Menadue AO, suggested that the work of the commission was too important to rush – especially as its recommendation will affect the future health of the Australian economy, as well as the economic security and wellbeing of all Australians.³⁹

2.39 Moreover, Ms Jennifer Doggett, Mr Ian McAuley and Mr John Menadue AO suggested that the short time given for the commission to do its work opens up the possibility for the commission's recommendations to be misunderstood or perceived as illegitimate by the wider Australian community.⁴⁰

Committee view

2.40 The committee believes the five months given to the commission to complete its work is simply not sufficient to review the totality of Commonwealth's expenditure, as well as to formulate advice to government that will encourage solid, evidence-based policy decisions.

Dealing with possible conflicts of interest

2.41 Another aspect of the commission's work in which the committee believes that there should be transparency is the declaration of any conflicts of interest that the commissioners, or the secretariat, may have and how those conflicts are dealt with.

Conflict of interest processes

2.42 The committee questioned the commission on its processes for dealing with conflicts of interest. Mr Shepherd noted that the commission's process for dealing with conflicts is outlined on its website. The process involves each commissioner declaring

35 *Proof Committee Hansard*, 15 January 2014, p. 26.

36 Ms Jennifer Doggett, Mr Ian McAuley and Mr John Menadue AO, *Submission 6*, p. 4-5; National Tertiary Education Union, *Submission 11*, p. 7; United Voice, *Submission 23*, p. 2; Australian Council of Trade Unions, *Submission 24*, pp 1-3; Australian Services Union, *Submission 39*, p. 7;

37 Australian Council of Trade Unions, *Submission 24*, pp 1-3.

38 Australian Services Union, *Submission 23*, p. 7.

39 Australian Council of Trade Unions, *Submission 24*, pp 1-3; Ms Jennifer Doggett, Mr Ian McAuley and Mr John Menadue AO, *Submission 6*, p. 4-5.

40 Ms Jennifer Doggett, Mr Ian McAuley and Mr John Menadue AO, *Submission 6*, pp 4-5, 6-7.

the interests, in writing, to the Department of Finance, as part of accepting the position with the commission.⁴¹ Further, Mr Shepherd stated:

That was one of the first things that I insisted that we do: develop a process for dealing with conflicts of interest and make it public so it is there for everybody to see.

...

The process is very much similar to what would be used in the corporate world and in the public sector.⁴²

2.43 Mr Shepherd took on notice whether the conflict declarations that the commissioners have made will be made public.

2.44 In its reply to questions on notice, the commission stated once more that its processes were in-line with corporate practice, although declining to make these declarations public:

Declarations of Commissioners' interests are handled according to the protocol set out on the National Commission of Audit website.

It is not appropriate to make these declarations public. Members of the Commission are not elected officials or holders of public office. The Commission has been tasked with providing a report to the Prime Minister, Treasurer and Minister for Finance. Its handling of potential conflict of interest matters is consistent with good practice.⁴³

2.45 In terms of dealing with any actual or potential conflicts, Mr Shepherd explained:

So you have identified a conflict, a matter comes up which is in your stated area of potential conflict of interest—I should say these are potential conflicts of interest—and then that is drawn to the attention of the meeting. Of course, we are aware of each other's potential [conflicts]. Then the commission decides whether that particular person can participate in the discussion on that particular issue or should excuse themselves.⁴⁴

2.46 Mr Shepherd took on notice whether there have been any instances where members of the commission needed to exclude themselves because of conflicts of interest.

2.47 The commission stated in its answer to questions on notice that to date there had not been any instances of commissioners needing to be excluded because of potential conflicts of interest. The commission indicated that:

41 *Proof Committee Hansard*, 15 January 2014, p. 27.

42 *Proof Committee Hansard*, 15 January 2014, p. 27.

43 Commission of Audit answers to questions on notice, 15 January 2014 (received 31 January 2014).

44 *Proof Committee Hansard*, 15 January 2014, pp 27-28.

Where potential conflicts of interest have been raised, they have not been considered sufficient to require the respective Commissioners to exclude themselves from discussions. Commissioners may exclude themselves from decisions where a potential conflict of interest is identified.⁴⁵

2.48 In particular, given that Mr Shepherd is currently the President of the Business Council of Australia (BCA) and Mr Crone is currently on a leave of absence from the BCA, the committee was interested in how any potential conflict of interest would be dealt with. In terms of the handling of the BCA's submission, Mr Crone stated:

I [have] not read it in detail. I had a quick flick through it, and I suppose it does not surprise me that in some regards it lines up with [the BCA's *Action plan for enduring prosperity*]. But that is immaterial. That is just one of many submissions. And, as I said...the commissioners have their views. This is the commission's report—

...

Submissions came in. I do not recall the particular details, but what typically happens is that a submission comes in and someone within the secretariat lodges that a submission had been received. I do not recall how [the BCA submission] made its way to me—whether someone printed it off and said, 'Here's a submission'; it may have been, 'Here's five submissions that have come in today.' As I said, the [BCA] was not precluded from making a submission. But to tell you the truth, it was really a matter of: I do not need to look at it; I have a sense of where they are coming from; that is one view. I had probably been focusing on meeting with ACOSS or something around that time.⁴⁶

2.49 Mr Crone argued he did not see any need to exempt himself from consideration of the BCA submission because 'personally I do not see there being a conflict of interest'.⁴⁷ Evidence to the committee was that at that point Mr Shepherd had not seen the BCA submission.⁴⁸

2.50 Mr John Grant, First Assistant Secretary, National Commission of Audit Secretariat, emphasised the role of the public servants in the secretariat in this situation:

Mr Crone heads up the secretariat. Five senior executive service officers work there. If we thought that Mr Crone was giving favouritism or something like that, it would be our responsibility to raise that with him and none of us have done that.⁴⁹

45 Commission of Audit answers to questions on notice, 15 January 2014 (received 31 January 2014).

46 *Proof Committee Hansard*, 15 January 2014, p. 44.

47 *Proof Committee Hansard*, 15 January 2014, p. 45.

48 Mr Peter Crone, Head of the National Commission of Audit Secretariat, *Proof Committee Hansard*, 15 January 2014, p. 44.

49 *Proof Committee Hansard*, 15 January 2014, p. 46.

2.51 When speaking with officers from the Department of Finance about this issue, Ms Rosemary Huxtable, Deputy Secretary Budget Group, explained:

I guess conflicts of interest can arise in a range of situations. Within the Commonwealth there is a fairly standard approach to dealing with conflicts of interest that includes the declaration of those conflicts. It is the declaring of the conflict. It is about being mindful of the conflict.⁵⁰

2.52 Ms Huxtable noted that, in her experience, when dealing with issues that impact on future policy directions 'generally you are dealing with almost everyone around the table having some direct interest in the outcome of that process' because those people have 'experience, skills and something to offer'.⁵¹

Addressing perceived bias

2.53 The committee sought an explanation from Mr Shepherd as to how his personal views would impact the commission's report. Mr Shepherd emphasised that although he has previously expressed publicly his personal views on issues, such as raising the rate and broadening the base of GST, he came to the commission's process with an open mind and the report would be from the five commissioners:

I have said that [that consideration should be given to raising the rate of the GST] in the past, but that does not mean that this commission will recommend that.

...

This is five independent people coming together, looking at the evidence and making their minds up.

...

I have come with an open mind.⁵²

2.54 Mr Shepherd added:

We are taking advice and seeking advice, to the extent that we think we need it to arrive at a conclusion on any issue, and we are constantly testing our assumptions. We have five independent commissioners, all with very strong characters and points of view which they bring to the table.⁵³

2.55 The other commissioners confirmed that Mr Shepherd does not have undue influence on the decision-making of the commission:

Senator BUSHBY: Is there any evidence to justify conspiracy theories that the BCA is shaping or filtering the work of the commission?

Mr Fisher: I think we can all say that, if there is a secret agenda, it is secret from us.

50 *Proof Committee Hansard*, 15 January 2014, pp 46-47.

51 *Proof Committee Hansard*, 15 January 2014, pp 46-47.

52 *Proof Committee Hansard*, 15 January 2014, p. 6.

53 *Proof Committee Hansard*, 15 January 2014, p. 16.

Senator BUSHBY: In the end, the report that is delivered to government will have input from all five of you?

Mr Shepherd: Absolutely.

Mrs Vanstone: Absolutely.⁵⁴

Acceptance of commission recommendations

2.56 In his opening statement, Mr Shepherd referred to the commission's 'broad remit to examine the scope, efficiency and productivity improvements across all areas of Commonwealth expenditure and to make recommendations'⁵⁵ and that there are 'no no-go areas'.⁵⁶

2.57 However, in press conferences and media interviews on the day the commission was announced, the Treasurer, the Hon Joe Hockey MP, indicated that the government would be keeping its election promises and that the government's election promises were 'insulated' from the work of the commission.⁵⁷

2.58 More recently, Mr Hockey stated that although the government intended to adopt 'the great majority' of the commission's recommendations:

Not everything they recommend we will accept, but we want to be in a position where we are able to proceed with, hopefully, the great majority of recommendations.⁵⁸

2.59 The committee infers from the Treasurer's statements that although the commission may have 'no no-go areas', the government is committed to disregarding any of the commission's recommendations which may be contrary to the government's election promises.

2.60 Mr Shepherd indicated that the commission will focus on the terms of reference and make 'whatever' recommendations are suitable regardless of the fact that the government has made clear it will not be accepting any recommendations which are contrary to its election promises.⁵⁹

54 *Proof Committee Hansard*, 15 January 2014, p. 21.

55 *Proof Committee Hansard*, 15 January 2014, p. 1.

56 *Proof Committee Hansard*, 15 January 2014, p. 3.

57 Media conference 22 October 2013, available at <http://jbh.ministers.treasury.gov.au/transcript/008-2013/> (accessed 20 January 2013) and a 7.30 Report interview on 22 October 2013, available at: <http://jbh.ministers.treasury.gov.au/transcript/013-2013/> (accessed 20 January 2014). See also Lauren Wilson, 'Tony Abbott dismisses fresh push to re-examine the GST', *The Australian*, 20 September 2013; Emma Griffiths, 'Tony Abbott says paid parental scheme may face changes to get passed by the Senate', ABC news online, 19 December 2013.

58 Phillip Coorey, 'Hockey lays ground for cuts', *Australian Financial Review*, 5 February 2014.

59 *Proof Committee Hansard*, 15 January 2014, p. 7.

2.61 When questioned by the committee on the apparent contradiction of the commission making recommendations it believes to be in the national interest, only to have the government not consider those recommendations, Mr Shepherd stated:

That is entirely up to the government. That is what we are doing. We have been asked to report—to conduct an audit, an audit that is complete and across the board. It is what areas we think we need to look at and to report on to government. It is up to government what they do with the report.⁶⁰

Conclusion

2.62 The work of the National Commission of Audit has the potential to result in significant savings and benefits for the Australian community, as well as the potential to do great harm to ordinary Australians.

Representation

2.63 The committee's first concern is representation on the National Commission of Audit. It believes that additional commissioners from a broader range of backgrounds, such as health and welfare groups, are necessary to reflect a much wider range of perspectives in the process.⁶¹

Recommendation 1

2.64 The committee recommends that the government include broader representation on the National Commission of Audit in order for a wider range of perspectives to be included in the process.

2.65 While the committee acknowledges that the commission is motivated by a sense of fairness and is mindful of the consequences of its recommendations,⁶² the committee also believes that because of the importance of the commission's work it should be open to scrutiny in relation to the terms of reference setting out the framework of the audit and the commission's processes for the conduct of the audit.

Transparency of commission processes

2.66 The committee believes that the information provided by the commission during the public hearing, and in response to questions on notice, has provided greater transparency on the commission's processes.

Submissions

2.67 Although there is no prohibition on people and organisations making their submissions available, submissions received by the commission are not available in one place, as they are for Senate inquiry submissions. The committee believes that the commission should make submissions available on their website unless confidentiality has been requested.

60 *Proof Committee Hansard*, 15 January 2014, p. 7.

61 See for example, ACTU, *Submission 24*, p. 3; CPSU, *Submission 38*, p. 2 (of the submission to the National Commission of Audit).

62 Mr Tony Shepherd, *Proof Committee Hansard*, 15 January 2014, p. 16.

Recommendation 2

2.68 The committee recommends that the National Commission of Audit make public all submissions it has received, with the exception of those where a request has been made for confidentiality.

Meetings

2.69 The commission's process around meetings with stakeholders to receive further information appears to be ad hoc, with meetings being held if one is requested. As the committee is not aware of any public hearings, in the interest of transparency the committee believes a list of these meetings should be made public.

Recommendation 3

2.70 The committee recommends that the National Commission of Audit make public a full list of meetings that the commission or its secretariat has been involved in. The list of meetings should include the names of the attendees at the meeting, the date of the meeting and who requested the meeting.

Conflict of interest

2.71 The committee believes that the commission should make public the full declarations of conflicts of interests signed by the commissioners, and also a full list of the times the commissioners have had to be excluded from discussions or receiving submissions due to conflicts of interest.

Recommendation 4

2.72 The committee recommends that the National Commission of Audit make public the full declarations of conflicts of interests signed by the commissioners, and the times when commissioners were excluded from discussions or receiving submissions due to conflicts of interest.

Reporting deadlines and timeframes

2.73 The committee is very concerned that the commission is working to reporting dates that are too tight to make appropriate, meaningful and well-considered recommendations on the whole of Commonwealth expenditure.

2.74 The committee is critical of the timelines stipulated by the government in the commission's terms of reference. Government should realise that it is important not to rush such a significant undertaking, but to take the time to get it right. This is important, as the commission's recommendations will have far-reaching consequences, both for the future economic prosperity of Australia as a nation, and for the wellbeing and security of all members of the public.

2.75 The committee believes that the short time given to the commission prevents it undertaking its task while observing due process. It does not have time for appropriately rigorous analysis of the size and scope of all current government expenditure. Its ability to formulate good advice for government to use for solid, evidence-based policy decisions is compromised. The inadequacy of these processes may affect the community's understanding of the commission's task and ultimately undermine the legitimacy of its recommendations.

Recommendation 5

2.76 The committee recommends that the government adopt a longer timeframe for the National Commission of Audit to complete its work, in the interests of comprehensive stakeholder consultation, more rigorous analysis, and so that the Australian community understands the commission's recommendations and the context in which they are made.

