

# Chapter 1

## Introduction

### Referral of the inquiry

1.1 On 25 November 2015, the Senate referred the following matter to the Senate Economics References Committee (committee) for inquiry and report by 4 February 2016:

An examination of the foreign investment review framework, including the powers and processes of the Foreign Investment Review Board, in relation to Australian assets of strategic or national significance being subject to lease or purchase by foreign owned interests, and whether there ought to be any legislative or regulatory changes to that framework to ensure Australia's national interest is being adequately considered, with particular reference to:

- (a) the decision by the Northern Territory Government to grant a 99-year-lease over the Port of Darwin to Landbridge Group;
- (b) the planned lease by the New South Wales Government of TransGrid;
- (c) the decision by the Treasurer to block the sale of S Kidman and Co on national interest grounds; and
- (d) any other related matters.<sup>1</sup>

1.2 On 4 February 2016, the committee tabled an interim report. On 8 April 2016, the committee tabled its report. In that report, the committee recommended an extension of the inquiry reporting date to 28 April 2016, in order to enable the committee to examine issues raised by the New South Wales (NSW) Government's decision to lease of 50.4 per cent of Ausgrid, one of the state's largest electricity distribution networks.

1.3 Public submissions to the inquiry are at Appendix 1.

1.4 This report should be read in conjunction with the committee's interim report, which was tabled in the Senate on 4 February 2016, and its substantive report, which was tabled on 8 April 2016.

### Purpose of the report

1.5 This supplementary report focusses on the NSW Government's decision to lease 50.4 per cent of Ausgrid, one of the state's major electricity distributors. It will examine this decision in relation to the issues raised by the committee's inquiry into the capacity of the foreign investment review framework to secure Australia's national interest. In particular, this supplementary report examines key aspects of the Ausgrid lease process in light of the committee's view, made clear in its substantive report, that

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1 *Journals of the Senate*, No. 129, 25 November 2015, p. 3482.

the current foreign investment review process lacks sufficient transparency and consistency.

### **Structure of the report**

1.6 Chapter 2 provides an overview of the Ausgrid lease process in respect of the NSW Government's *Rebuilding NSW* strategy. It also considers the potential implications of a recent decision by the Australian Energy Regulator (AER) to lower the distribution charges that electricity distributors are entitled to charge consumers.

1.7 Chapter 3 examines the evidence for and against the lease of 50.4 per cent of Ausgrid. In addition to providing an overview of the NSW Government's case for the Ausgrid lease, Chapter 3 considers evidence presented to the committee that critical infrastructure assets are potentially more vulnerable to cyber-attack and disruption if they are sold or leased to foreign owned entities, especially State-owned Enterprises (SOEs). Chapter 3 also relates the conclusions contained in the committee's substantive report, especially that the foreign investment review framework lacks consistency and transparency, to the lease of Ausgrid and the sale of S. Kidman and Co.