

# **Chapter 1**

## **Introduction**

1.1 This is the first report on annual reports for 2017 of the Senate Environment and Communications Legislation Committee (the committee). It provides an overview of annual reports of agencies within the allocated portfolios tabled in the Senate between 1 May 2016 and 31 October 2016.

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.

### **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 report 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 31 August 2016, the committee has oversight of the following portfolios:

- Environment and Energy; and
- Communications and the Arts.<sup>1</sup>

## Reporting requirements

1.5 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) established a performance reporting framework for all Commonwealth entities and companies. The performance framework is based on section 38 of the PGPA Act which requires all Commonwealth entities to measure and assess their performance. The performance framework established under the PGPA Act includes the requirement for Commonwealth entities and companies to prepare a corporate plan and annual performance statements. The Public Governance, Performance and Accountability Rule 2014 (PGPA Rule 2014) contain the minimum requirements to be included.

1.6 For the first time, annual reports have been prepared with annual performance statements. 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 its corporate plan.

1.7 Following the transitional arrangements that were in place for reporting in the 2014–15 financial year, the 2015–16 reporting period is the first full year of reporting under the requirements of the PGPA Act. Below is a summary of the legislative authority and requirements for the different types of bodies under which annual reports are prepared for:

- Non-corporate Commonwealth entities: PGPA Act, section 46 and the PGPA Rule 2014, Division 3A(A); for portfolio departments and executive agencies, the *Public Service Act 1999*, sections 63(2) and 70(2); and for statutory bodies, relevant enabling legislation.
- Corporate Commonwealth entities: PGPA Act, section 46 and the PGPA Rule 2014, 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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1 *Journals of the Senate*, No. 2, 31 August 2016, pp. 75–76.

- 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.<sup>2</sup>

### *Disclosure of senior executive remuneration*

1.8 In its *Annual Reports (No.1 of 2016)*, the committee commented on the decrease in the level of information provided for senior executive remuneration as a consequence of the implementation of arrangements pursuant to the PGPA Act and the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR).<sup>3</sup>

1.9 In particular, the committee noted that while the FRR set out 'minimum' requirements, no entities within the committee's portfolio areas provided any additional information on director/senior executive remuneration. The lack of additional information regarding senior executive remuneration has continued to be a feature of relevant annual reports examined for this reporting period. The committee notes that, as with the previous annual report, the NBN Co Annual Report 2015–16 has provided full disclosure of senior executive remuneration. As a Commonwealth company, it is not required to provide this level of information on remuneration. The committee commends NBN Co's commitment to transparency in relation to remuneration.

1.10 More recently, the disclosure of the remuneration of senior executives of Commonwealth entities has been the subject of discussion and response by the Government, particularly in relation to Australia Post. At the Supplementary Budget hearings in October 2016, the committee sought details of senior executive remuneration as these were not included in its 2015–16 annual report. The questions were taken on notice and Australia Post then sought to have the answers received on a confidential basis under another of the committee's powers. On 7 February 2017, the committee made public the answers as part of the estimates process.

1.11 The then chair of the committee, Senator Paterson, in a statement to the Senate noted that this information had been available previously in annual reports.<sup>4</sup> The then chair also noted that the Auditor-General in the January 2017 *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2016*, had commented on disclosure requirements for executive remuneration and concluded:

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

3 Senate Environment and Communications Legislation Committee, *Annual Reports (No. 1 of 2016)*, March 2016, pp 4–7.

4 *Senate Hansard*, 8 February 2017, pp. 89–90.

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There would be benefit in government considering making the aggregate level of transparency for key management personnel remuneration in the public sector consistent with that required for listed entities.<sup>5</sup>

1.12 In response to a question in the Senate, the Minister for Communications stated that the Government 'agrees with the Senate committee's unanimous view that there is a public interest to report the executive remuneration offered at Government Business Enterprises (GBEs) and that GBEs should be held to a high standard of disclosure'.<sup>6</sup> The committee welcomes the Minister's comments. The committee has also written to the Minister for Finance and the Joint Committee of Public Accounts and Audit noting that its experience with Australia Post raises broader issues about the adequacy of information included in annual reports that have application across the Commonwealth.

1.13 In addition, the committee notes that at its Additional Estimates hearing of 28 February 2017 Mr John Stanhope AM, Chairman of Australia Post, indicated that Australia Post had the previous night published on its website a Remuneration Report. This report outlined the senior executive remuneration strategy and the various components of salary, including the long term incentive payments. Mr John Stanhope stated that:

It is the board's intention, going forward, to disclose senior executive remuneration in the upcoming and future annual reports...If you look at that disclosure, it is virtually a precis of the whole contract, and you will see how we set benchmarks and how we reward our executives—not just the CEO; all the senior executives. The disclosure includes the explanation of the business. By the way, I will just add: I believe it is in the interest of us to disclose these things because it has become apparent that Australia Post is not actually well understood, so disclosure, in my mind and in the mind of the board, is very important.<sup>7</sup>

1.14 The committee welcomes the announcement by Australia Post that it will provide detailed information on senior executive remuneration in its future annual reports.

## **Reports examined**

1.15 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 2016 and 31 October 2016:

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5 Australian National Audit Office, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2016*, Report No. 33 2016–17, January 2017, p. 9.

6 *Senate Hansard*, Senator the Hon Mitch Fifield, Minister for Communications, 9 February 2017, p. 51.

7 *Committee Hansard*, Mr John Stanhope AM, 28 February 2017, p. 40.

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*Non-corporate Commonwealth entities*

- Department of Communications and the Arts—Annual Report 2015–16;
- Department of the Environment and Energy—Annual Report 2015–16;
- Australian Communications and Media Authority and the Office of the Children's eSafety Commissioner—Annual Report 2015–16;
- Bureau of Meteorology—Annual Report 2015–16;
- Clean Energy Regulator—Annual Report 2015–16;
- Climate Change Authority—Annual Report 2015–16; and
- Great Barrier Reef Marine Park Authority—Annual Report 2015–16.

*Corporate Commonwealth entities*

- Australia Council for the Arts—Annual Report 2015–16;
- Australian Broadcasting Corporation—Annual Report 2015–16;
- Australian Film, Television and Radio School—Annual Report 2015–16;
- Australian National Maritime Museum—Annual Report 2015–16;
- Australian Postal Corporation—Annual Report 2015–16;
- Australian Renewable Energy Agency—Annual Report 2015–16;
- Clean Energy Finance Corporation—Annual Report 2015–16;
- Director of National Parks—Annual Report 2015–16;
- National Film and Sound Archive of Australia—Annual Report 2015–16;
- National Gallery of Australia—Annual Report 2015–16;
- National Library of Australia—Annual Report 2015–16;
- National Museum of Australia—Annual Report 2015–16;
- National Portrait Gallery of Australia—Annual Report 2015–16;
- Old Parliament House (Museum of Australian Democracy—Annual Report 2015–16;
- Screen Australia—Annual Report 2015–16;
- Special Broadcasting Service Corporation—Annual Report 2015–16; and
- Sydney Harbour Federation Trust—Annual Report 2015–16.

*Commonwealth companies*

- Australian Business Arts Foundation Limited (Creative Partnerships Australia)—Annual Report 2015–16;
- Bundanon Trust—Annual Report 2015–16; and
- NBN Co Limited—Annual Report 2015–16.

## Reports not examined

1.16 The committee is not obliged to report on Acts, statements of corporate intent, policy papers, budget documents, corporate plans or errata. The following were referred to the committee between 1 May 2016 and 31 October 2016 but are not examined in this report:

- Australian Communications and Media Authority—Communications Report for 2015–16;
- Australian National Maritime Museum—Corporate Plan 2016–2020;
- Australian Postal Corporation—Diversity and Inclusion Annual Report 2016;
- *Climate Change Authority Act 2011*—Towards a climate policy toolkit: Special Review on Australia's Climate Goals and Policies Report, dated August 2016; and
- *Fuel Quality Standards Act 2000*—Independent Review on the Operation of the Act Final Report by Marsden Jacob Associates and Pacific Environment Limited, dated April 2016.

## Timeliness

1.17 Section 46 of the PGPA Act requires the provision of an annual report of a Commonwealth entity to the responsible minister by the 15th day of the fourth month after the end of the reporting period for the entity. This section of the Act does not, however, provide for a timeframe for the minister to present the report to the Parliament.

1.18 Section 97 of the PGPA Act sets out the requirements for the provision of annual reports of Commonwealth companies to the responsible minister.

1.19 The PGPA Rule 2014 states that annual reports for corporate Commonwealth entities, non-corporate Commonwealth entities and Commonwealth companies must comply with the *Guidelines for the Presentation of Documents to the Parliament*, which is prepared by the Department of the Prime Minister and Cabinet.<sup>8</sup>

1.20 The guidelines advise that for all entities:

As per past practice, it is expected that the responsible Minister will present the report to each House of Parliament on or before 31 October. If Senate Supplementary Budget Estimates hearings are scheduled to occur prior to 31 October, it is best practice for annual reports to be tabled prior to those

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8 See PGPA Rule 2014, sections 17AB, 17BC and 28C.

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hearings. This ensures that annual reports are available for scrutiny by the relevant Senate standing committee.<sup>9</sup>

1.21 Where a body is unable to meet this deadline, an extension of time to report can be sought under the provisions of subsections 34C(4)–(7) of the *Acts Interpretation Act 1901*.

1.22 Appendix 1 lists the annual reports tabled (or presented) in the Senate and the House of Representatives between 1 May 2016 and 31 October 2016 and referred to the committee, with relevant tabling dates.

#### *Reports received after 31 October 2016*

1.23 The committee is disappointed to note that the Great Barrier Reef Marine Park Authority within the Environment and Energy Portfolio and the Classification Board and the Classification Review Board within the Communications and the Arts Portfolio presented their annual reports after 31 October 2016. The Great Barrier Reef Marine Park Authority Annual Report 2015–16 was tabled in the Senate on 8 November 2016. The Classification Board and the Classification Review Board Annual Report 2015–16 was tabled in the Senate on 9 November 2016. Those annual reports received after the 31 October deadline will be examined and considered in the committee's *Annual Reports (No. 2 of 2017)*.

#### **Senate debate**

1.24 Under Standing Order 25(20)(d), the committee is obliged to note any remarks made in the Senate about annual reports. None of the annual reports examined in this report were the subject of Senate debate.

#### **Apparently satisfactory**

1.25 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.

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

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9 Department of the Prime Minister and Cabinet, *Guidelines for the Presentation of Documents to the Parliament (including Government Documents, Government Responses to Committee Reports, Ministerial Statements, Annual Reports and other Instruments)*, August 2016, pp. 4–5.

