

Chapter 1

Introduction

1.1 The Senate Finance and Public Administration Legislation Committee (the committee) is responsible for examining the annual reports of the parliamentary departments,¹ and the departments and agencies of the Prime Minister and Cabinet Portfolio and the Finance Portfolio.

1.2 This is the first report on annual reports for 2015 and provides an overview of selected annual reports presented to the Parliament between 1 May and 31 October 2014. Copies of this and other committee reports can be obtained from the Senate Table Office, the committee secretariat or [online](#) at the committee's web page.

Terms of reference

1.3 Under Senate Standing Order 25(20) the annual reports of certain departments and agencies stand referred to committees for examination and assessment. Each 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 to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports; and
- (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.

1 As a matter of comity between the Houses of Parliament, neither House inquires into the operations of the other House. For this reason, neither the annual report of, nor the proposed expenditure for, the Department of the House of Representatives is referred to a Senate committee for review.

Allocated portfolios

1.4 The Senate allocated departments and agencies to committees on 13 November 2013.² In accordance with that resolution, the committee has responsibility for the oversight of the following:

- Parliament;
- Prime Minister and Cabinet Portfolio (PM&C Portfolio); and
- Finance Portfolio.

Role of annual reports

1.5 Annual reports place a great deal of information about government departments and agencies on the public record in relation to the performance, activities, management and financial position of the reporting body. The *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies* (Requirements for Annual Reports), prepared by the Department of the Prime Minister and Cabinet (PM&C), notes that '[t]he primary purpose of annual reports of departments is accountability, particularly to the Parliament.'³ Annual reports assist the Parliament in the effective examination of the performance of departments and agencies, and the administration of government programs.

Reports examined

1.6 During the period of 1 May to 31 October 2014, 24 annual reports of bodies or statutory office holders were presented to the Parliament and referred to the committee. The reports examined are categorised as follows:

Parliamentary departments

- Parliamentary Budget Office – Report for 2013-14
- Department of the Senate – Report for 2013-14
- Department of Parliamentary Services – Report for 2013-14

Departments of State

- Department of the Prime Minister and Cabinet – Report for 2013-14, including report of the Coordinator-General for Remote Indigenous Services
- Department of Finance – Report for 2013-14

Financial Management and Accountability Act 1997 Act agencies

- Australian National Audit Office – Report for 2013-14
- Australian Public Service Commissioner – Report for 2013-14, including report of the Merit Protection Commissioner

2 *Journals of the Senate, No. 1*, 13 November 2013, pp 88-89.

3 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, 29 May 2014, p. 4.

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- Inspector-General of Intelligence and Security – Report for 2013-14
 - Commonwealth Ombudsman – Report for 2013-14
 - Office of the Official Secretary to the Governor-General – Report for 2013-14
 - Australian Electoral Commission – Report for 2013-14
 - ComSuper – Annual Report 2013-14
 - Future Fund Management Agency – Report for 2013-14

Commonwealth Authorities and Companies Act 1997 bodies

Authorities

- Northern Land Council – Report for 2012-13
- Indigenous Land Corporation – Report for 2013-14
- Albury-Wodonga Development Corporation – Report for 2013-14

Companies

- Aboriginal Hostels Limited – Report for 2013-14
- National Australia Day Council Limited – Report for 2013-14
- Medibank Private Limited – Report for 2014
- Australian River Co. Limited – Report for the period 1 December 2012 to 30 November 2013
- ASC Pty Ltd – Report for 2013-14 (*Also referred to the Foreign Affairs, Defence and Trade Legislation Committee*)

Statutory office holders

- Independent National Security Legislation Monitor – Report for the period 1 July 2013 to 28 March 2014
- Remuneration Tribunal – Report for 2013-14
- Parliamentary Service Commissioner – Report for 2013-14

Reports not examined

1.7 The committee is not obliged to examine reports on the operation of Acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata. Where a report is referred to two standing committees, the committee has deferred examination of those reports to the committee which has primary oversight of the portfolio where that agency sits. Accordingly, the following documents were also referred to the committee but not examined in this report:

- Office for Women – Report of the Australian Government Delegation to the 58th Session of the United National Commission on the Status of Women, New York, dated 10 to 21 March 2014
- Torres Strait Regional Authority – Corrigendum to the Report for 2012-13

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- Australian National Action Plan on Women, Peace and Security 2012-18 – Progress Report 2014
 - Renewable Energy Target Scheme – Report of the Expert Panel, August 2014 (*Also forwarded to the Economics Legislation Committee and the Environment and Communications Legislation Committee*)
 - Report of the Royal Commission into the Home Insulation Program (*Also forwarded to the Legal and Constitutional Affairs Legislation Committee*)
 - Aboriginal and Torres Strait Islander Peoples Act of Recognition Review Panel Final Report September 2014
 - Clean Energy Finance Corporation – Program report for the period 17 April 2013 to 16 April 2014 (*Also forwarded to the Economics Legislation Committee*)
 - Moorebank Intermodal Company – Statement of corporate intent 2014–15 (*Also forwarded to the Rural and Regional Affairs and Transport Legislation Committee*)
 - Australian Rail Track Corporation Limited – Statement of Corporate Intent 2014-15 (*Also forwarded to the Rural and Regional Affairs and Transport Legislation Committee*)
 - Australian Electoral Commission – Federal Election 2013 – Funding and disclosure report, April 2014
 - Final Budget Outcome 2013-14
 - Department of Finance
 - Report for 2010-11 – Erratum
 - Report for 2011-12 – Erratum
 - Report for 2012-13 – Erratum
 - Australian Postal Corporation (Australia Post) – Statement of Corporate Intent 2014-15 to 2017-18 (*Also forwarded to the Environment and Communications Legislation Committee*)
 - Moorebank Intermodal Company – Report for 2013-14 (*Also forwarded to the Rural and Regional Affairs and Transport Legislation Committee*)
 - Clean Energy Finance Corporation – Report for 2013-14 (*Also forwarded to the Economics Legislation Committee*)

Method of assessment

1.8 Senate Standing Order 25(20) requires that the committee examine reports referred to it to determine whether they are timely and 'apparently satisfactory'. The committee must consider whether the reports comply with the relevant legislation and guidelines for the preparation of annual reports in forming its assessment.

1.9 The *Financial Management and Accountability Act 1997* (FMA Act) and the *Commonwealth Authorities and Companies Act 1997* (CAC Act) were repealed on

30 June 2014 and replaced by the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) on 1 July 2014. The annual reports for the 2014–15 year will be prepared in accordance with the relevant requirements and rules of the PGPA Act. However, the 2013–14 annual reports were prepared under the arrangements existing as at 30 June 2014 as set down in the following instruments:

- for portfolio departments and agencies, and the parliamentary departments: the *Public Service Act 1999*, sections 63(2) and 70(2), and the *Parliamentary Service Act 1999*, section 65; other relevant enabling legislation for statutory bodies; and the Requirements for Annual Reports (for departments and prescribed agencies under the FMA Act);
- for Commonwealth authorities and companies: the CAC Act, in particular, sections 9, 36 (which refers to requirements under the *Corporations Act 2001* for companies) and 48; and the *Commonwealth Authorities (Annual Reporting) Orders 2011* and the *Commonwealth Companies (Annual Reporting) Orders 2011*; and
- for non-statutory bodies: the guidelines are contained in the government response to the Senate Standing Committee on Finance and Public Administration Report on Non-Statutory bodies, *Senate Hansard*, 8 December 1987, pp 2632–45.

Requirements for Annual Reports for 2013–14 reports

1.10 The Requirements for Annual Reports are reviewed annually and, if required, are updated to take into account any changes to reporting requirements in legislation, arising from new policy, or recommendations in parliamentary, Australian National Audit Office (ANAO), or other reports. The Requirements for Annual Reports published on 29 May 2014, noted that the significant amendments to the current version relate to:

- Spatial reporting - In recognition of problems with spatial reporting data, the requirement to report on this data previously contained in subsection 14(5) and Attachment D to the Requirements has been omitted;
- Social inclusion - The requirement to report on social inclusion strategic change indicators previously contained in subsection 11(4) of the Requirements has been omitted as a consequence of the disbandment of the Social Inclusion Unit of the Department of the Prime Minister and Cabinet.⁴

1.11 The Requirements for Annual Reports further note that significant amendments are anticipated for the 2014–15 financial year following the commencement of the PGPA Act, as noted above.⁵

4 Requirements for Annual Reports, 29 May 2014, p. i.

5 Requirements for Annual Reports, 29 May 2014, p. i.

Timeliness

1.12 Annual reports for departments, executive agencies and FMA Act bodies are required to be tabled in Parliament by 31 October each year unless another date is specified in an agency's legislation and/or charter. The Requirements for Annual Reports state that 'it remains the Government's policy that all annual reports should be tabled by 31 October' and further notes that it is best practice for annual reports to be tabled prior to the Supplementary Budget Estimates hearings.⁶ The committee considers the timely presentation of annual reports to be an important element in accountability and continues to encourage bodies to follow this policy.

1.13 Commonwealth authorities reporting under the CAC Act are required to provide an annual report to the responsible minister by the fifteenth day of the fourth month after the end of the financial year. For the standard financial year, this is 15 October. In accordance with section 34C(3) of the *Acts Interpretation Act 1901*, the Minister is required to present the report to the Parliament within 15 sitting days of that House after the day on which the report was received.

1.14 Commonwealth companies are required under section 36 of the CAC Act to provide a report to the Minister four months after the end of the financial year, which is usually 31 October.⁷ The Minister is required to table the report in the Parliament as soon as practicable after receiving it, or in the case of a company required to hold an annual general meeting, as soon as practicable after the meeting.⁸

1.15 Appendix 1 lists the annual reports tabled (or presented) in Parliament between 1 May and 31 October 2014, and referred to the committee, with relevant tabling dates.

Reports covering the 2013-14 financial year

1.16 Reports covering the 2013-14 financial year examined in this report were presented in the Parliament in a timely manner, that is, by 31 October 2014. The committee further notes the reports were presented by ministers in a timely manner following their receipt.

1.17 The committee commends those agencies whose annual reports were presented in the Parliament before the Supplementary Budget Estimates hearings which commenced in the week beginning 20 October 2014, making them available for examination at this time.

6 Requirements for Annual Reports, 29 May 2014, p. 3.

7 If a company is required by the *Corporations Act 2001* to hold an annual general meeting, the company must give the report to the Minister on whichever is the earlier date of the following: 21 days before the next annual general meeting after the end of the financial year; or four months after the end of the financial year. (see subsection 36(1A) of the CAC Act).

8 CAC Act, Section 36(4).

Reports covering other timeframes

Northern Land Council Annual Report 2012-13

1.18 The annual report of the Northern Land Council (NLC) for the 2012-13 financial year was tabled in the House of Representatives on 5 June 2014 after being provided to the Minister for Indigenous Affairs on 13 March 2014. This is significantly after the time period required for CAC Act authorities, as noted above. The Minister received the report on 26 March 2014 and tabled it within the required time period of 15 sitting days of each respective House of Parliament. The committee notes that the NLC wrote to the Minister on three occasions (24 October 2013, 17 January 2014 and 11 March 2014) seeking an extension of time for the provision of the annual report due to a protracted audit process, followed by an underestimation of the time required to redesign and proof read the final. On each occasion the Minister granted the extension, reiterating in his last letter his concern about the delay in finalising the report and his expectation that the NLC will ensure the timely presentation of future reports.⁹

1.19 The committee notes comments on the NLC's 2012-13 financial statements by the Australian National Audit Office in its Report No. 16 of 2014-15 *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2014*, of 18 December 2014, where it stated that:

In 2012–13 the ANAO identified that weaknesses in financial management reported in 2011–12 remained unresolved and there were also weaknesses in the Council's financial statement preparation processes. In particular, a number of significant adjustments were required to the draft financial statements presented for audit and finalisation of the audit was delayed due to difficulties in obtaining information, the poor quality of reports and reconciliations, and delays in the responses to queries.¹⁰

1.20 During the Additional Estimates 2014-15 hearing on 27 February 2015, the committee was advised by the Chief Executive Officer of the NLC, Mr Joe Morrison, that he had only become aware of these findings in 'recent days'. When asked for his response to the findings, he advised the committee that:

...in the first instance...we are very keen to work with the department [of PM&C] in terms of not just understanding but also putting in processes by which that greater accountability can be brought into the organisation.¹¹

1.21 Ms Liza Carroll, Associate Secretary, Indigenous Affairs, Department of the PM&C, further advised of the possible role of the department in a future review of processes:

9 Correspondence from Senator the Hon Nigel Scullion to Mr Samuel Bush-Blasani, Chairperson, NLC, dated 15 May 2014, tabled in the Senate 16 June 2014.

10 Australian National Audit Office, Report No. 16 2014-15, *Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2014*, p. 251.

11 *Proof Committee Hansard*, 27 February 2015, p. 9.

Certainly Mr Morrison will, I am sure, approach the department and we would provide support through our financial management area. Obviously we were aware of the ANAO issues that have been raised and we would also work with the ANAO and with the Northern Land Council. If they commissioned an external party, an accounting firm or something like that, then, if they wished, we would also work with them. But we certainly would, especially our financial management area, support the Northern Land Council and provide advice if it was required.¹²

1.22 The committee will continue to monitor the NLC's reform of its financial management processes and future financial and annual reporting performance, in terms of content and timeliness.

Independent National Security Legislation Monitor Annual Report 28th March 2014

1.23 The Independent National Security Legislation Monitor Annual Report 28th March 2014 covers the period 1 July 2013 to 28 March 2014, the period of review reflecting the cessation of the then Monitor's term in office on 21 April 2014. The tabling of this report on 18 June 2014, covering a shortened period of review, complies with the relevant requirements under section 29 of the *Independent National Security Legislation Monitor Act 2010*.

Australian River Co. Limited Report Annual Report 2013

1.24 The report of the Australian River Co. Limited covers the period 1 December 2012 to 30 November 2013. The report was received by the Minister on 3 March 2014 and tabled on 14 May 2014, meeting the tabling requirements for a Commonwealth company.

Senate debate

1.25 In accordance with Standing Order 25(20)(d) the committee is required to take into account any relevant remarks about the reports made in debate in the Senate. The committee notes that none of the annual reports examined in this report have been the subject of comments or debate in the Senate.

Non-reporting bodies

1.26 Standing Order 25(20)(h) requires that the committee inquire into, and report on, any bodies which do not present annual reports to the Senate but should present such reports.

1.27 The Registrar of Indigenous Corporations is an independent statutory office holder who administers the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). The CATSI Act replaced the *Aboriginal Councils and Associations Act 1976* (ACA Act) in 2006. The committee notes that there is not a requirement for the Registrar to prepare an annual report for presentation in the Parliament under the current establishing legislation. There was not a requirement for the Registrar to prepare an annual report under the repealed ACA Act either.

12 *Proof Committee Hansard*, 27 February 2015, p. 8.

1.28 Section 1-30 of the CATSI Act requires that 'There is to be, within the Department, the Office of the Registrar of Aboriginal and Torres Strait Islander Corporations.'

1.29 The website of the Office of the Registrar of Indigenous Corporations (ORIC) states that in relation to its annual reports, ORIC reports through its portfolio department.¹³

1.30 The committee notes that before the recent changes to the Administrative Arrangements Order (AAO) which moved Indigenous Affairs into the PM&C Portfolio, some information relating to the work of the Registrar, including a brief account of the activities and performance against KPIs, had been included in the annual reports of the former Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), including the 2012-13 annual report.¹⁴

1.31 However, in its review of the Department of the PM&C Annual Report 2013-14 the committee noted that performance information for ORIC was not included. This report makes one reference to the Registrar of Indigenous Corporations as one of a number of statutory office holders within the PM&C Portfolio.¹⁵ At the Additional Estimates hearing on 27 February 2015, officials from the Department of the PM&C were unable to explain why performance information relating to ORIC was not included in the department's current annual report:

I do not know whether there is any specific reason for not including it in the annual report. The PM&C annual report traditionally sticks to the requirements of the annual report to keep the report short.¹⁶

1.32 The ORIC website provides links to annual reports of portfolio departments or agencies which contain information on the operations of the office up to 2008 only.¹⁷ These included contributions to the annual reports of the former FaHCSIA, Department of Immigration and Indigenous Affairs or the Aboriginal and Torres Strait Islander Commission. This webpage also provides links to annual reports prepared by the Office of Registrar of Aboriginal Corporations (ORAC), as it was previously known, from 2000 until 2003. It was also noted that the 2001-02 report was tabled in the Senate on 13 August 2003.¹⁸

13 See <http://www.oric.gov.au/news-and-reports/corporate-publications> (accessed 19 January 2015).

14 Department of Families, Housing, Community Services and Indigenous Affairs Annual Report 2012-13, pp 108-109.

15 *Department of the Prime Minister and Cabinet Annual Report 2013-14*, p. 68.

16 Ms Amanda McIntyre, Acting First Assistant Secretary, Integration and Efficiency Taskforce, Department of the Prime Minister and Cabinet, *Proof Committee Hansard*, 27 February 2015, p. 26.

17 See <http://www.oric.gov.au/publications/annual-reports> (accessed 19 January 2015).

18 *Journals of the Senate*, No. 88, 13 August 2003, p. 2101.

1.33 It appears that since 2002-03 ORIC/ORAC has prepared a 'Yearbook' which is available on its website. It provides information which addresses most of the information required under the 2013-14 KPIs for the agency which are contained in the relevant PBS.¹⁹

1.34 The website notes:

Although current legislation does not require it, ORIC publishes a yearbook to share unique and critical information relevant to improving outcomes for Indigenous peoples in Australia. The content of this publication is more detailed than its contributions to the departmental annual reports. It includes case studies and data to illustrate major issues, and we report more fully on the solutions we have found and the work we are doing for long-term improvement. Some of the material is about work in progress, included to encourage feedback and discussion.²⁰

1.35 The committee notes that under the statement of expectations by the former Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, the Minister outlined her expectations in regard to transparency and accountability of the Registrar:

Although established as an independent statutory office holder, the Registrar remains accountable to the Parliament and ultimately to the public through myself, the parliamentary committee process and contribution to FaHCSIA's annual report.²¹

1.36 The Registrar, Mr Anthony Beven, responded on 29 August 2008 with a statement of intent for the 2008-09 financial year which set out the plans for his office. In relation to the provision of performance information and annual reporting he advised the Minister that:

In addition to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) departmental indicators, I have announced 10 key performance indicators for my office for the 2008-09 financial year as part of the FaHCSIA's portfolio budget statements. These indicators cover:

- the transitioning of corporations to the Corporations (Aboriginal and Torres Strait Islander) Act (the CATSI Act);
- increasing the number of corporations registered under the CATSI Act;
- increasing the compliance of corporations;

19 *Families, Housing, Community Services and Indigenous Affairs Portfolio, Portfolio Budget Statements 2013-14*, p. 150.

20 See <http://www.oric.gov.au/news/oric-publications/yearbooks> (accessed 19 January 2015).

21 Correspondence from the Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs to Mr Anthony Beven, Registrar of Indigenous Corporations, dated 12 August 2008, <http://www.oric.gov.au/publications/other-publication/statement-expectations-minister-macklin> (accessed 19 February 2015).

- conducting formal examinations of the governance arrangements of Indigenous corporations;
- providing registration and support activities; and
- providing training to corporations.

Outcomes against these indicators will be reported in FaHCSIA's annual report.²²

1.37 The committee considers that it would be useful for the previous processes to be reviewed by the current Minister for Indigenous Affairs and the Registrar in order to ensure that appropriate information is provided to the Parliament.

1.38 The committee is of the view that at a minimum, performance information for ORIC should continue to be included in the annual report of the portfolio department, now PM&C. The inclusion of the office's funding and expenditure levels would also assist in transparency as the Department of the PM&C confirmed at the recent Additional Estimates hearing that this level of detail is not publicly available:

The office is funded internally from the department's budget. In terms of the PBS, it is the departmental funding that comes to the department that is then allocated to the office through our normal internal budget process.

...

It is not available externally anywhere specifically, no.²³

1.39 Alternatively, noting that there is not a legislative requirement for the Registrar to prepare an annual report, he may choose to do so as a matter of best practice in regard to transparency and accountability to the Parliament. As noted above, this practice has been followed in the past and given that the office currently prepares a 'Yearbook', a modified version of this report, with core operations, budget, performance and accountability information, may not impose an onerous administrative burden on the office.

Recommendation 1

1.40 The committee recommends that the Minister for Indigenous Affairs and the Registrar of Indigenous Corporations review the previous process of incorporating information about the Registrar in the annual report of the portfolio department which supported accountability to the Parliament, and advise the committee on future arrangements.

22 Correspondence from Mr Anthony Beven, Registrar of Indigenous Corporations to the Hon Jenny Macklin MP, Minister for Housing, Community Services and Indigenous Affairs, dated 29 August 2008, <http://www.oric.gov.au/publications/other-publication/statement-intent-oric> (accessed 19 February 2015).

23 Ms Amanda McIntyre, Acting First Assistant Secretary, Integration and Efficiency Taskforce, Department of the Prime Minister and Cabinet, *Proof Committee Hansard*, 27 February 2015, p. 25.

Assessment of reports

1.41 Under Standing Order 25(20)(a), the committee is required to examine the annual reports of departments and agencies and report to the Senate on whether they are 'apparently satisfactory'. In its examination of the annual reports referred, the committee found them to be of a satisfactory standard and largely adhere to relevant requirements. The committee considers the reports examined to be 'apparently satisfactory'.