

Chapter 1

Overview

1.1 The Senate Rural and Regional Affairs and Transport Legislation Committee's (the committee) report on annual reports provides an overview of the committee's examination of annual reports for the 2018–19 financial year, tabled between 1 May 2019 and 31 October 2019.¹ The Committee is responsible for examining the annual reports of departments and agencies within the portfolios of:

- Agriculture; and
- Infrastructure, Transport, Cities and Regional Development.²

1.2 This is the first of two reports on annual reports the Committee is required to produce in 2020.

Terms of reference

1.3 Under Senate Standing Order 25(20), annual reports of departments and agencies shall stand referred to the legislation committees in accordance with an allocation of departments and agencies in a resolution of the Senate. 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 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.
- (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 The committee notes that all reports were presented to the House of Representatives within the required timeframe, however, due to the 2019 parliamentary sitting calendar some reports could not be tabled in the Senate until after 31 October 2019.

2 *Journals of the Senate*, No. 1, 2 July 2019, p. 41.

Purpose of annual reports

1.4 The tabling and scrutiny of annual reports by Senate committees under Standing Order 25(20) is an important element in the process of government accountability to the Parliament. Annual reports place information about government departments and agencies on the public record in relation to the performance activities, management and financial position of the reporting body. They are a primary accountability mechanism and assist the Parliament in the effective examination of the performance of departments and agencies, and the administration of government programs.

Reports referred to the Committee

1.5 In accordance with Standing Order 25(20)(f), this report examines the following annual reports, tabled in the Parliament or presented out of session and referred to the Committee between 1 May 2019 and 31 October 2019:

Agriculture portfolio

- Department of Agriculture—Annual Report 2018–19;
- Australian Fisheries Management Authority—Annual Report 2018–19;
- Murray-Darling Basin Authority—Annual Report 2018–19.

Infrastructure, Transport, Cities and Regional Development portfolio

- Department of Infrastructure, Transport, Cities and Regional Development—Annual Report 18-19;³
- Airservices Australia—Annual Report 2018-19;
- Australian Maritime Safety Authority (AMSA) —Annual Report 2018-19;
- Australian Rail Track Corporation Ltd (ARTC) —Annual Report 2019;
- Australian Transport Safety Bureau (ATSB)—Annual Report 2018-19;
- Civil Aviation Safety Authority (CASA)—Annual Report 2018-19;
- Infrastructure and Project Financing Agency (IPFA)—Annual Report 2018-19;
- Infrastructure Australia—Annual Report 2018-19;
- International Air Services Commission—Annual Report 2018-19;
- Moorebank Intermodal Company Limited (MIC)—Annual Report 2019;
- National Transport Commission (NTC) —Annual Report 2018-2019;
- Western Sydney Airport (WSA)—Annual Report 2019.

3 A corrigendum to the Department of Infrastructure, Transport, Cities and Regional Development annual report was presented out of sitting in the Senate on 18 October 2019.

Reports not examined

1.6 The committee is not obliged to report on Acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata. Accordingly, the following documents were referred to the committee but have not been examined in this report:

- Deed of Variation in relation to the Regional Forest Agreement for the South-West Forest Region of Western Australia;
- Review of *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013* – Operation of the amendments – Section 4 of the *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013*;
- Airservices Australia – Report on Movement Cap for Sydney Airport – First Quarter 2019 - 1 January 2019 to 31 March 2019 – Section 9(3) of the *Sydney Airport Demand Management Act 1997*;
- Airservices Australia – Corporate Plan 2019-20 – Section 15 of the *Air Services Act 1995*;
- Civil Aviation Safety Authority (CASA) – Corporate Plan 2019-20 – Section 45 of the *Civil Aviation Act 1988*;
- Final budget outcome 2018-19—Report by the Treasurer (Mr Frydenberg) and the Minister for Finance (Senator Cormann), dated September 2019;
- Airservices Australia – Report on Movement Cap for Sydney Airport – Second Quarter 2019 - 1 April 2019 to 30 June 2019 – Section 9(3) of the *Sydney Airport Demand Management Act 1997*;
- Report to Parliament on Livestock Mortalities During Export by Sea for the period of 1 July - 31 December 2018 – Division 5, Section 57AA of the *Australian Meat and Live-stock Industry Act 1997*;

Annual reporting requirements

1.7 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.

1.8 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 Portfolio Budget Statements.

1.9 The performance framework established under the PGPA Act 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 2014), established under the PGPA Act, details the

requirements for the corporate plan, annual performance statements as well as guidelines for annual reports.⁴

1.10 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 2014, Division 3A(A);
- for portfolio departments and executive agencies, the *Public Service Act 1999*, subsections 63(2) and 70(2);
- for parliamentary departments, the *Parliamentary Service Act 1999*, section 65I; 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.

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.⁵

Timeliness

1.11 Standing Order 25(20)(c) requires the committee to report to the Senate on the late presentation of annual reports. In assessing the timeliness of the presentation of annual reports, the committee assesses the presentation against the requirements of different categories of bodies, the PGPA Rule 2014 and other legislative requirements.

Commonwealth entities

1.12 Section 46 of the PGPA Act requires Commonwealth entities, both corporate and non-corporate, to prepare an annual report and provide it to the responsible minister by the 15th day of the fourth month, which translates as 15 October. Certain agencies, however, may have a specific date stipulated by their enabling legislation.

4 See *Public Governance, Performance and Accountability Rule 2014* (Sections 16E, 16F and 27A)

5 *Senate Hansard*, 8 December 1987, pp. 2642–45.

1.13 Formerly, annual reports of non-corporate entities had to be presented by the responsible Minister to each House of Parliament on or before 31 October each year.⁶ There is no longer an explicit stipulation for this to occur as the PGPA Rule is silent on the matter. However, the PGPA Rule does recommend that such reports be tabled before Supplementary Budget Estimates.

Commonwealth companies

1.14 Section 97 of the PGPA Act sets out the requirements for the provision of annual reports of Commonwealth companies to the responsible minister. Under subsection 97(2) of the PGPA Act, a company is to provide a report:

- (a) if the company is required by the *Corporations Act 2001* to hold an annual general meeting—the earlier of the following:
 - (i) 21 days before the next annual general meeting after the end of the reporting period for the company;
 - (ii) 4 months after the end of the reporting period for the company; and
- (b) in any other case—4 months after the end of the reporting period for the company; or the end of such further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.

1.15 Subsection 97(5) of the PGPA Act states:

- (5) If the Commonwealth company is a wholly-owned Commonwealth company, or is not required to hold an annual general meeting, 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.

PGPA Rule 2014

1.16 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.⁷

1.17 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 the 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

6 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Entities*, 25 June 2015, p. 2.

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

those hearings. This ensures that annual reports are available for scrutiny by the relevant Senate standing committee.⁸

1.18 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 sitting days after the minister receives it.

Timeliness of reports examined

1.19 The presentation of annual reports to the Parliament has two elements with regard to timeliness: the furnishing of the report to the minister and the presentation of the report to the Parliament.

1.20 Appendix 1 sets out a complete list of documents referred to the committee during the period 1 May 2019 and 31 October 2019 (including those not examined in this report).⁹ This appendix includes references to the relevant legislation, the letter of transmittal dates, the dates on which the annual reports were sent to, and received by, the relevant minister, and the dates on which the annual reports were tabled in both the House of Representatives and the Senate.

1.21 The committee notes that the following bodies did not present an annual report to the entity's responsible minister by 15 October as stipulated by section 46(2) of the PGPA Act:

- Australian Livestock Export Corporation Limited (LiveCorp);
- Fisheries Research and Development Corporation (FRDC);
- Grains Research and Development Corporation (GRDC); and
- Cotton Research and Development Corporation (CRDC).

1.22 The committee notes that the following bodies did not table their annual reports in either the House of Representatives or the Senate prior to the commencement of Supplementary Budget Estimates:

- Regional Investment Corporation;
- North Queensland Water Infrastructure Authority;
- National Capital Authority;

8 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.

9 Reports were considered tabled and referred if they were tabled in either the House of Representatives or the Senate prior to 31 October, even if they may not have been tabled in the Senate until after that date.

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- Australian Pesticides and Veterinary Medicines Authority;
 - Australian Livestock Export Corporation Limited (LiveCorp);
 - AgriFutures Australia;
 - Fisheries Research and Development Corporation;
 - Grains Research and Development Corporation;
 - Cotton Research and Development Corporation; and
 - Wine Australia.

1.23 The committee notes with concern the increased number of agencies that have not tabled their annual reports prior to the commencement of Supplementary Budget Estimates.

1.24 The committee reminds all agencies that it is best practice for annual reports to be tabled prior to the commencement of Supplementary Budget Estimates. The committee further notes that it is possible for agencies to table their annual reports out-of-sitting to ensure that they meet their statutory obligations and to ensure that reports are available to senators before Supplementary Budget Estimates. The timely tabling of annual reports allows senators sufficient time to consider their detail before the hearings.

1.25 The committee will continue to monitor the timeliness of the tabling of future annual report and strongly encourages the aforementioned entities to table their annual reports prior to 19 October 2020.

Senate debate

1.26 Senate Standing Order 25(20) requires the committee to take into account any relevant remarks about reports made in debate in the Senate. The committee notes that the annual reports examined in this report have not been the subject of comments or debates in the Senate.

Bodies not presenting annual reports to the Senate

1.27 The committee is required to report to the Senate on whether there are any bodies which should have presented an annual report to the Senate but did not. The committee is satisfied that there are no such bodies at this time.

Apparently satisfactory

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

1.29 The committee considers that the majority of annual reports referred during the reporting period were 'apparently satisfactory'. The following chapter examines selected annual reports in further detail.

