

# Senate Estimates Hearings Index

## February 2023

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## Legislation Committee Membership

### Committee Members – As at 07/02/2023

#### Chair

Senator Jess Walsh



Australian Labor Party, VIC – elected 2019

- **Currently in the news:** Senator Walsh has provided comments in broadly in favour of the National Reconstruction Fund. The Bill that establishes the National Reconstruction Fund Corporation (which will be provided with \$15 billion to invest in priority areas of the economy) is before the Committee. Senator Walsh said feedback on the Fund has been positive and that it will meet industry's desire to 'go to market with the Australian Government as partner'
- **2001 PhD Thesis (Uni of Melb):** Organising the low-wage service sector: labor, community and urban politics in the United States.
- **Research Fellow:**
  - Institute for Policy Studies, John Hopkins University (USA), 1998 to 1999
  - Economic Policy Institute, Washington DC (USA), 1999 to 2000
- Worked at United Voice (trade union for hospitality and childcare workers) from 2002 to 2019, rising to Victorian Secretary of United Voice.

#### Deputy Chair

Senator Andrew Bragg



Liberal Party of Australia, NSW – elected 2019

- **Currently in the news:** Senator Bragg has recently urged APRA to investigate payments between industry superannuation funds and trade unions.
- **Degrees:** Financial Regulation (Macq); Accounting (ANU) and International Relations (ANU).
- **Public policy interest.** Worked at Financial Services Council from 2009 to 2017, rising to Director of Policy.
- Executive Director of the Business Council of Australia from 2017 to 2018.
- **Author (Connor Court Publishers):**
  - **Fit for Service: Meeting the demand of the Asian middle class**, 2017
  - Andrew wrote the modern version of the "**Scrap Iron for Japan**" essay in Paul Ritchie's *Forgotten People Updated*, 2018
  - **Bad Egg: how to fix super**, 2020
  - **Buraadja: The Liberal Case for National Reconciliation**

## Member

Senator Nick McKim



Australian Greens, TAS – elected 2016

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- **Currently in the news:** In response to the Treasurer's essay in the Monthly , Senator McKim stated that a pledge to remake capitalism will be nothing more than hollow words unless the Stage 3 tax cuts are not undertaken, super profits are taxed and action to look after people and the environment is undertaken.
  - **Strong interest in education issues.**
  - **Employment history:**
    - Up to 1999: Organic market gardener, shepherd, remote area mineral exploration, fruit picker, wilderness guide.
    - 1999 to 2002: Advertising executive and public administration.
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## Member

Senator Deborah O'Neill



Australian Labor Party, NSW elected 2016

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- **Currently in the news:** Senator O'Neil is chairing Parliamentary Joint Committee inquiry into Corporate Insolvency . She has said that witnesses have said that the insolvency system is a historical artefact that has been subject to much 'tinkering'
  - **O'Neill's recent social media** has focused on multinational tax and the aged care workforce.
  - **Focus on education** with post graduate degrees in teaching and previous occupations in secondary school teaching and lecturing on education at the University of Newcastle.
-

## Member

Senator Dean Smith



Liberal Party of Australia, WA – elected 2016

- **Smith's** recent social media has focused on criticisms of Labor's budget.
  - **Current Parliamentary appointments and positions:**
    - Member of the Advisory Council on Australian Archives from 26.7.2022.
    - Temporary Chair of Committees from 26.7.2022.
    - Shadow Assistant Minister for Competition, Charities and Treasury from 5.6.2022.
  - Smith has post graduate qualifications in political science and financial services, (insurance) with a mix of positions held in the insurance industry, WA state and federal policy advisor roles and four years as the General Manager of Government Affairs at SingTel Optus from 2005 to 2009.
- 

## Member

Senator Jana Stewart



Australian Labor Party, VIC – elected 2022

- Labor's first Indigenous female senator for Victoria
- A Mutthi Mutthi and Wamba Wamba woman
- **Stewart's social media** has focused on indigenous and health matters, including the Voice

Stewart has a master's degree in clinical family therapy from La Trobe University. Prior to entering politics, Stewart worked as a family therapist, university lecturer, and policy adviser on Aboriginal affairs and child protection. She worked for Victorian state Aboriginal affairs minister Natalie Hutchins on treaty negotiations. She was a later a deputy secretary of the Victorian Department of Justice focusing on Stolen Generations reparations.

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## Substitute Member

Senator Penny Allman-Payne



Australian Greens, QLD – elected 2022

*Substitute Member to replace Senator Nick McKim for the National Energy Transition Authority Bill 2022*

*Substitute Member to replace Senator Nick McKim for the National Reconstruction Fund Corporation Bill 2022 [Provisions]*

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- **Currently in the news:** Senator Allman-Payne has commented on the Commission's NSRA report, saying the findings in the report are evidence of the failure of governments to fully fund public schools has created an inequality and crisis in education.

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- **Committees:**

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Joint Select: Northern Australia

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- **Positions:**

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Australian Greens Spokesperson for Schools, Industry, Transition, Regional Development and Northern Australia

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Payne holds post graduate degrees in education and law.

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## Participating Members

Senators Penny Allman-Payne, Alex Antic, Wendy Askew, Ralph Babet, Catryna Bilyk, Simon Birmingham, Andrew Bragg, Ross Cadell, Matthew Canavan, Michaelia Cash, Claire Chandler, Raff Ciccone, Richard Colbeck, Dorinda Cox, Perin Davey, Patrick Dodson, Jonathon Duniam, Mehreen Faruqi, David Fawcett, Nita Green, Karen Grogan, Pauline Hanson, Sarah Hanson-Young, Sarah Henderson, Hollie Hughes, Jane Hume, Jacqui Lambie, Kerryne Liddle, Susan McDonald, James McGrath, Bridget McKenzie, Nick McKim, Andrew McLachlan, Jim Molan, Deborah O'Neill, Matt O'Sullivan, James Paterson, Fatima Payman, Marise Payne, Barbara Pocock, David Pocock, Helen Polley, Gerard Rennick, Linda Reynolds, Malcolm Roberts, Anne Ruston, Paul Scarr, Tony Sheldon, David Shoebridge, Dean Smith, Jordon Steele-John, Glenn Sterle, Jana Stewart, Lidia Thorpe, Tammy Tyrrell, David Van, Jess Walsh, Larissa Waters, Peter Whish-Wilson, Linda White

## Schedule of Current Commissioned Projects

Topic	Timing				No. of subs
	ToR received	Issues Paper	Draft	Final	
Review of Progress on Closing the Gap	7 Apr 2022	‘Engagement approach’ released Jul 6 2022  ‘Approach to the Review’ released 27 Oct	July 2023	Final report to Joint Council Dec 2023  Final report release to be advised	25 submissions 2 comments (as at 13 Feb 2023)
Carer Leave	23 Feb 2022	15 Jul 2022	Late Feb 2023	To Gov’t May 2023  Final report release to be advised	40 submissions 5 comments (as at 13 Feb 2023)
Future Drought Fund	10 Jan 2023	‘Call for subs paper’ 19 Jan 2023	June 2023	To Gov’t September 2023  Final report release to be advised	2 submissions (as at 13 Feb 2023)
Early Childhood Education and Care	9 Feb 2023 (inquiry starts 1 Mar 2023)	TBA	TBA	To Gov’t 30 June 2023	N/A
Philanthropy	11 Feb 2023	TBA	TBA		N/A

## Other current work

Competitive neutrality complaint against Australia Post	Complaint received 24 February 2022 Currently under investigation
Report On Government Services	2023 report released progressively between 24 January and 7 February 2023
Closing the Gap work	<ul style="list-style-type: none"> <li>• <b>Dashboard:</b> last update released June 2022, Next updates to be released in March and June 2023</li> <li>• <b>Annual Data Compilation</b> report: released July 2022. Next report will be released July 2023.</li> <li>• <b>Closing the Gap Review:</b> <ul style="list-style-type: none"> <li>○ ToR received 7 April 2022</li> <li>○ Draft report release: July 2023</li> <li>○ Final report to Joint Council: December 2023</li> </ul> </li> </ul>
Water desk	Ongoing
As per website at 7 Feb 2023.	

## Ongoing annual reporting publications

Topic	Description	Release/Expected
Trade and Assistance Review	These annual reports contain the Commission's latest estimates of Commonwealth assistance to industry. They also examine recent developments in assistance to various sectors of the economy, changes in Australia's foreign investment levels and policies, and recent international policy developments affecting Australia's trade.	Expected 2021-22 release in July 2023
Productivity Insights	The Commission is charged with promoting public understanding of productivity issues and concepts. The annual insights unpacks and analyses the latest ABS productivity statistics, and details and comments on trends and new developments underlying Australia's recent productivity performance.	2021 released 17 June 2021

## Anticipated References (legislated)

Topic	Anticipated Timing	Notes
Basin Plan and the water resource plans	<b>Terms of Reference</b> Early 2023  <b>Call for submissions</b> tbc  <b>Final report</b> tbc	<i>Water Act 2007 (Part 3. 87) - effectiveness of the implementation of the Basin Plan and the water resource plans</i>  Required every 5 years  The Department of Climate Change, Energy, the Environment and Water is the lead agency for administration of the Act. The Department is preparing draft Terms of Reference.
National Water Initiative	<b>Terms of Reference</b> Mid-2023 [tbc]  <b>Call for submissions</b> tbc  <b>Final report</b> tbc	<i>Water Act 2007 (Part 3. 88) - progress of parties to the National Water Initiative towards achieving the objectives and outcomes of the National Water Initiative</i>  Required every 3 years  The Department of Climate Change, Energy, the Environment and Water is the lead agency for administration of the Act. The Department is preparing draft Terms of Reference.

## Recently Completed Projects

Topic	Timing		No. Subs
	ToR received	Final release	
Productivity Inquiry	7 Feb 2022	TBC (went to Government in February 2023)	203 submissions 17 comments (as at 7 February 2023)
National Schools Reform Agreement (study)	7 April 2022	20 January 2023	127 submissions 80 comments (as at 7 February 2023)
Australia's Maritime Logistics System (inquiry)	10 December 2021	9 January 2023	114 submissions 7 comments (as at 7 February 2023)



Competitive Neutrality Investigation — NBN Co	Complaint received 20 October 2020	29 November 2022	N/A
Aboriginal and Torres Strait Islander Visual Arts and Crafts	5 August 2021	13 December 2022	54 submissions 10 comments (as at 7 February 2023)
Aged Care Employment Study	23 February 2022	21 October 2022	50 submissions 37 comments (at 21 October 2022)
Housing and Homelessness Agreement Review Study	13 December 2021	30 September 2022	105 submissions 8 comments (at 21 October 2022)
The Nuisance Cost of Tariffs	NA	5 August 2022	4 submissions
Public Transport Pricing	NA	15 December 2021	NA
Wealth Transfers and their Economic Effects	NA	7 December 2021	NA

## Older projects

Topic	ToR received	Final release	No. Subs
Register of Foreign-owned Water Entitlements	4 December 2020	2 December 2021	17 (and 1 brief comment)
Right to Repair	29 October 2020	1 December 2021	243 (and 243 comments)
Stocktake of current mental health and suicide prevention programs	3 March 2021 (request from Treasurer for the NFRC)	TBC (will not be released until after the completion of the National Agreement on Mental Health and Suicide Prevention)	NA
National Water Reform	22 May 2020	2 September 2021	194 (109 initial and 85 post-draft)
Vulnerable Supply Chains	19 February 2021	13 August 2021	59 (and 2 comments)
Review of National Agreement for Skills and Workforce Development (study)	15 Nov 2019	21 Jan 2021	158 (63 initial & 95 post-draft)
Resources Sector Regulation (study)	6 Aug 2019	10 Dec 2020	98 (53 initial & 45 post-draft)
Indigenous Evaluation Strategy (project)	10 April 2019 (letter of direction)	30 October 2020	180 (112 initial & 68 post-draft)
Mental Health (inquiry)	23 Nov 2018	16 Nov 2020	1244 (564 initial & 680 post-draft)
National Transport Regulatory Reform (inquiry)	5 Apr 2019	1 Oct 2020	82 (44 initial & 38 post-draft)
Expenditure on Children in the Northern Territory (study)	14 Mar 2019	8 April 2020	50 (32 initial & 18 post-draft)
Remote Area Tax Concessions and Payments (study)	28 Nov 2018	26 Feb 2020	199 (98 initial & 101 post-draft)

Compensation and Rehabilitation for Veterans (inquiry)	27 Mar 2018	4 Jul 2019	314 (153 initial, 161 post-draft)
Economic Regulation of Airports (inquiry)	22 Jun 2018	22 Oct 2019	185 (88 initial, 97 post-draft)
Growing the Digital Economy and Maximising Opportunities for Small Medium Enterprises (SMEs)*	3 Aug 2018	14 Feb 2019	N/A
National Disability Agreement Review (Study)	25 May 2018	1 Feb 2019	72
Murray-Darling Basin Plan: Five-year assessment (Inquiry)	7 Mar 2018	25 Jan 2019	143 (89 initial, 54 post-draft)
Superannuation: Assessing Efficiency and Competitiveness (Inquiry)	30 Jun 2017	10 Jan 2019	232 (100 initial, 132 post-draft)
Competition in the Australian Financial System (Inquiry)	8 May 2017	3 Aug 2018	133 (52 initial, 85 post-draft)
Horizontal Fiscal Equalisation (Inquiry)	5 May 2017	5 Jul 2018	132 (56 initial, 67 post-draft & 9 brief subs)
National Water Reform (Inquiry)	1 Feb 2017	31 May 2018	145 (83 initial & 62 post-draft)
Transitioning Regional Economies (Study)	15 Dec 2016	15 Dec 2017	81 (37 initial & 44 post-draft)
Collection Models for GST on Low Value Imported Goods (Inquiry)	30 Jun 2017	9 Nov 2017	44 (39 Initial & 5 supplementary)
Human Services: Reforms to Human Services (Inquiry)	29 Apr 2016	26 Mar 2018	203 (91 Initial & 112 post-draft)
Shifting the Dial: 5-year productivity review	16 Sept 2016	22 Oct 2017	
National Disability Insurance Scheme (NDIS) Costs (Study)	20 Jan 2017	19 Oct 2017	372 (206 initial & 166 post-position paper)

\*The Productivity Commissions of Australia and New Zealand undertook a joint research to examine priority areas for growing the digital economy, in particular opportunities for SMEs. The joint work commenced in September 2018, and the final research report was handed to the Australian Government on 31 January 2019, and publically released on 14 February 2019.

Self-Initiated Research	Report release
The Nuisance Cost of Tariffs	5 August 2022
Public transport pricing	15 December 2021
Wealth transfers and their economic effects	7 December 2021
Innovations in care for chronic health conditions	3 November 2021
Australia's Prison Dilemma	29 October 2021
Small business access to finance	30 September 2021
Working from home	16 September 2021
Things you can't drop on your feet: An overview of Australia's services sector productivity	15 April 2021
Why Did Young People's Incomes Decline?*	30 July 2020

Foreign Investment in Australia	23 June 2020
Funding and Financing Integrated Water Cycle Management	18 March 2020
Productivity Insights: Can Australia be a productivity leader?	13 March 2020
Productivity Insights: Recent productivity trends	17 February 2020
Vulnerable Private Renters: Evidence and Options	25 September 2019
The Demand Driven University System: A mixed report card	17 June 2019
Rising Inequality? A stocktake of the evidence	28 Aug 2018

\*\* Accompanied by a staff working paper 'Climbing the jobs ladder slower: Young people in a weak labour market', released 27 July 2020

# Future Drought Fund

## Terms of reference

### Inquiry into the effectiveness of Part 3 of the *Future Drought Fund Act 2019*

I, Jim Chalmers, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, and section 32A of the *Future Drought Fund Act 2019* (the Act), hereby request that the Productivity Commission (the Commission) undertake an inquiry into the effectiveness of Part 3 of the Act.

### Background

The Future Drought Fund, established by the *Future Drought Fund Act 2019* (the Act) provides secure, continuous funding for programs, grants and arrangements that support Australian farmers and associated communities to prepare for, and become more resilient to, the impacts of future droughts. Building drought resilience is a complex and long-term endeavour. It requires tailored and practical support reflecting the unique circumstances and diverse needs and aspirations of different farmers, their communities and agricultural industries.

Under the Act, \$100 million is made available each year for drought resilience programs, arrangements and grants. The design and delivery of such programs, arrangements and grants is guided by a Drought Resilience Funding Plan and governed by Part 3 of the Act.

On 12 February 2020, the then Minister for Agriculture, Drought and Emergency Management made the *Future Drought Fund (Drought Resilience Funding Plan 2020 to 2024) Determination 2020* (the Funding Plan). This Funding Plan sets out a 4-year framework to guide the design and delivery of programs, grants and arrangements under the Act.

A first tranche of programs was announced on 1 July 2020, at the same time the first \$100 million became available. This has been built on with successive programs, announced in the context of federal budget processes. Programs are in varying stages of delivery.

As a new and enduring initiative, a range of foundational systems and processes have been established to support administration of Part 3 of the Act.

Under section 32A of the Act, the Commission must periodically undertake an inquiry into the effectiveness of Part 3 of the Act, including the Funding Plan that is in place. A referral for the first inquiry must be made by 12 February 2023. Under the Act, this inquiry process is followed by a requirement to establish a new Funding Plan by 12 February 2024.

### Scope of the inquiry/research study

In accordance with section 32A of the *Future Drought Fund Act 2019* (the Act), the Inquiry must undertake an assessment of the effectiveness of Part 3 of the Act, including:

- the *Future Drought Fund (Drought Resilience Funding Plan 2020 to 2024) Determination 2020*
- programs, arrangements and grants made under Part 3 of the Act
- processes and systems to administer, govern and evaluate programs, arrangements and grants made under Part 3 of the Act.

As also required by section 32A, the Commission should have regard to economic, social and environmental outcomes in assessing these matters.

In undertaking the Inquiry, the Commission should also:

- Consider the effectiveness and appropriateness of the Funding Plan in guiding progress towards the objective of drought resilience.
- Consider the effectiveness, efficiency and appropriateness of the programs, arrangements and grants in delivering against the Funding Plan and objective of drought resilience.
- Consider the effectiveness, efficiency and appropriateness of Part 3 of the Act, including its administration through the systems and processes established to develop, deliver, govern, monitor and evaluate programs, arrangements and grants.
- Provide specific and practical advice to inform the development of a new Funding Plan; the development, delivery, monitoring and evaluation of future programs, arrangements and grants; and the processes and systems to administer the Fund.

In addition to these general evaluation questions, the Commission is asked to also consider:

- Opportunities to enhance proactive collaboration in planning and delivering drought resilience initiatives, including with state and territory governments.
- Opportunities to enhance engagement with, and benefits for, First Nations peoples.
- The merits of longer planning and program timeframes in building resilience.
- The merits of broadening the scope of the Fund to support resilience to climate change for the agriculture sector and communities dependent on agriculture.

## Process

The Commission is to undertake a public consultation process as part of the Inquiry.

The Commission may elect to engage directly with stakeholders, including representatives from the farming sector. It is also specifically requested that the Commission consults with Future Drought Fund Consultative Committee and, the Australian, state and territory governments.

The final report must be provided within 8 months of the receipt of these terms of reference.

**The Hon Jim Chalmers MP**  
**Treasurer**

[Received 10 January 2023]

## More from this inquiry

[Inquiry home](#)[Subscribe to this inquiry](#)[Terms of reference](#)[Call for submissions](#)[Make a submission](#)[Make a brief comment](#)[View submissions and brief comments](#)



# **Inquiry into Part 3 of the *Future Drought Fund Act 2019***

## Call for submissions

The Commission has issued this call for submissions and invites individuals and organisations to lodge submissions to the inquiry.

The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

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## The Productivity Commission

**The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.**

**The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.**

**Further information on the Productivity Commission can be obtained from the Commission's website ([www.pc.gov.au](http://www.pc.gov.au)).**

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## Call for submissions

The Commission has released this call for submissions to invite individuals and organisations to prepare submissions to the inquiry.

Participants should not feel that they are restricted to comment only on matters raised in the call for submissions. The Commission wishes to receive information and comment on issues which participants consider relevant to the inquiry's terms of reference.

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## Key inquiry dates

Receipt of terms of reference	10 January 2023
Due date for submissions	3 March 2023
Final report to Government	10 September 2023

## Contact details

Phone	02 6240 3250
Freecall	1800 020 083
Email	<a href="mailto:future.drought.fund@pc.gov.au">future.drought.fund@pc.gov.au</a>
Website	<a href="http://www.pc.gov.au/inquiries/current/future-drought-fund">www.pc.gov.au/inquiries/current/future-drought-fund</a>

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# Inquiry into the effectiveness of Part 3 of the *Future Drought Fund Act 2019*

The Australian Government has asked the Productivity Commission to undertake an inquiry to assess the effectiveness of Part 3 of the *Future Drought Fund Act 2019* (the Act) (attachment A). The inquiry will include an assessment of the:

- *Drought Resilience Funding Plan 2020 to 2024*
- programs, arrangements and grants made under Part 3 of the Act
- processes and systems to administer, govern and evaluate the programs, arrangements and grants.

As part of the inquiry, the Commission will provide advice on the development of a new Funding Plan, future programs, arrangements and grants and the administration of the Fund.

The Commission has also been asked to consider the merits of the Fund supporting resilience to climate change, opportunities to enhance engagement with and benefits for Aboriginal and Torres Strait Islander people, the planning and program timeframes in building resilience, and opportunities for collaboration.

The Commission would like to hear your views and perspectives on issues relevant to the inquiry's scope.

In particular, the Commission is looking for **evidence on ways** the Fund is supporting or not supporting drought resilience, and **answers to the following questions**:

- Are the funding principles, vision, aim, strategic priorities, and objectives of the Funding Plan (attachment B) appropriate and effective?
- Do the programs, arrangements and grants focus on the right priorities to support drought resilience? If not, what should the programs, arrangements and grants focus on and why?
- Should the scope of the Fund be broadened to support resilience to climate change? Why or why not?
- How could the Fund enhance engagement with and benefits for Aboriginal and Torres Strait Islander people?
- What opportunities are there to enhance collaboration in planning and delivering drought resilience initiatives, including with state and territory governments?
- Are there any other changes needed to improve the effectiveness of Part 3 of the Act? Who needs to do what to make those changes happen?

The issues raised in this call for submissions are not intended to limit what information you share with the Commission, and submissions or discussions you have with the Commission do not need to address all of the questions. Submissions and comments focusing on a particular issue are welcome, as are submissions and comments that take a local, regional, State or Territory, or national perspective.

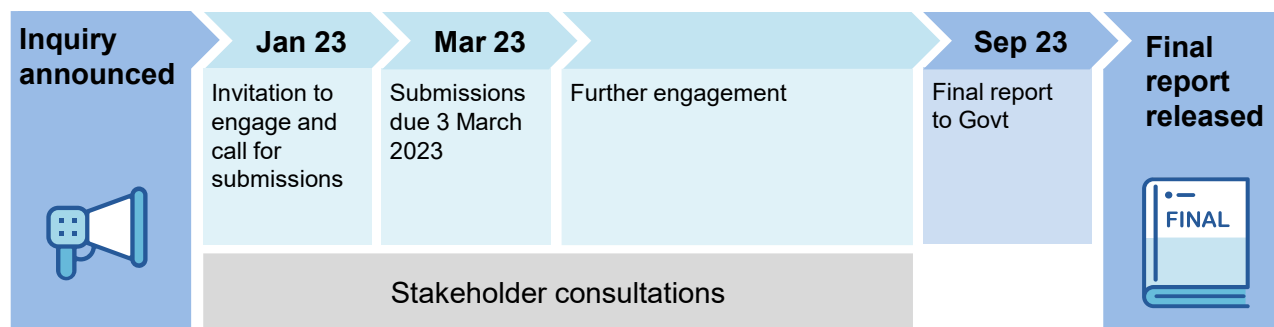
The Commission invites you to engage with this inquiry. There are different ways you can share your views. You can:

- make a submission
- send a brief comment
- meet with us.

Attachment C explains how to make a submission. Submissions are requested by 3 March 2023 (figure 1). Early submissions would be appreciated.

Further information on the inquiry and the Commission's consultation process can be found at [www.pc.gov.au/inquiries/current/future-drought-fund](http://www.pc.gov.au/inquiries/current/future-drought-fund).

Figure 1 – Key steps in the inquiry



## A. Terms of reference

I, Jim Chalmers, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, and section 32A of the *Future Drought Fund Act 2019* (the Act), hereby request that the Productivity Commission (the Commission) undertake an inquiry into the effectiveness of Part 3 of the Act.

### Background

The Future Drought Fund, established by the *Future Drought Fund Act 2019* (the Act) provides secure, continuous funding for programs, grants and arrangements that support Australian farmers and associated communities to prepare for, and become more resilient to, the impacts of future droughts. Building drought resilience is a complex and long-term endeavour. It requires tailored and practical support reflecting the unique circumstances and diverse needs and aspirations of different farmers, their communities and agricultural industries.

Under the Act, \$100 million is made available each year for drought resilience programs, arrangements and grants. The design and delivery of such programs, arrangements and grants is guided by a Drought Resilience Funding Plan and governed by Part 3 of the Act.

On 12 February 2020, the then Minister for Agriculture, Drought and Emergency Management made the *Future Drought Fund (Drought Resilience Funding Plan 2020 to 2024) Determination 2020* (the Funding Plan). This Funding Plan sets out a 4-year framework to guide the design and delivery of programs, grants and arrangements under the Act.

A first tranche of programs was announced on 1 July 2020, at the same time the first \$100 million became available. This has been built on with successive programs, announced in the context of federal budget processes. Programs are in varying stages of delivery.

As a new and enduring initiative, a range of foundational systems and processes have been established to support administration of Part 3 of the Act.

Under section 32A of the Act, the Commission must periodically undertake an inquiry into the effectiveness of Part 3 of the Act, including the Funding Plan that is in place. A referral for the first inquiry must be made by 12 February 2023. Under the Act, this inquiry process is followed by a requirement to establish a new Funding Plan by 12 February 2024.

### Scope of the inquiry/research study

In accordance with section 32A of the *Future Drought Fund Act 2019* (the Act), the Inquiry must undertake an assessment of the effectiveness of Part 3 of the Act, including:

- the *Future Drought Fund (Drought Resilience Funding Plan 2020 to 2024) Determination 2020*
- programs, arrangements and grants made under Part 3 of the Act
- processes and systems to administer, govern and evaluate programs, arrangements and grants made under Part 3 of the Act.

As also required by section 32A, the Commission should have regard to economic, social and environmental outcomes in assessing these matters.

In undertaking the Inquiry, the Commission should also:

- Consider the effectiveness and appropriateness of the Funding Plan in guiding progress towards the objective of drought resilience.
- Consider the effectiveness, efficiency and appropriateness of the programs, arrangements and grants in delivering against the Funding Plan and objective of drought resilience.
- Consider the effectiveness, efficiency and appropriateness of Part 3 of the Act, including its administration through the systems and processes established to develop, deliver, govern, monitor and evaluate programs, arrangements and grants.
- Provide specific and practical advice to inform the development of a new Funding Plan; the development, delivery, monitoring and evaluation of future programs, arrangements and grants; and the processes and systems to administer the Fund.

In addition to these general evaluation questions, the Commission is asked to also consider:

- Opportunities to enhance proactive collaboration in planning and delivering drought resilience initiatives, including with state and territory governments.
- Opportunities to enhance engagement with, and benefits for, First Nations peoples.
- The merits of longer planning and program timeframes in building resilience.
- The merits of broadening the scope of the Fund to support resilience to climate change for the agriculture sector and communities dependent on agriculture.

## Process

The Commission is to undertake a public consultation process as part of the Inquiry.

The Commission may elect to engage directly with stakeholders, including representatives from the farming sector. It is also specifically requested that the Commission consults with Future Drought Fund Consultative Committee and, the Australian, state and territory governments.

The final report must be provided within 8 months of the receipt of these terms of reference.

**The Hon Jim Chalmers MP**

Treasurer

[Received 10 January 2023]

## B. Drought Resilience Funding Plan

This attachment includes excerpts from the Drought Resilience Funding Plan 2020 to 2024.

### Funding principles

The arrangements and grants will:

1. be consistent with the Vision, Aim, Strategic Priorities and Objectives outlined in this Plan
2. ensure only projects and activities that enhance the public good by building drought resilience are funded. Projects and activities must deliver significant benefits that can be accessed or shared by many (rather than be captured solely by individual businesses or industries solely for commercial gain)
3. not provide in-drought assistance
4. not duplicate or replace existing Commonwealth, state, territory or local government funding programs, and will aim to improve the coordination or integration of existing Commonwealth Government policies, frameworks and programs where they meet the Fund's purpose
5. be delivered in accordance with Commonwealth guidelines where applicable including the Commonwealth Grants Rules and Guidelines 2017, the Commonwealth Procurement Rules 2019 and the *Federal Financial Relations Act 2009*
6. consider the incremental, transitional and transformational opportunities needed to strengthen drought resilience and encourage innovative proposals
7. support a range of activities or projects at a mixture of levels, such as the farm, regional or national level
8. deliver programs through a user-based lens and, where possible, a community-led, co-design, and/or end-user approach
9. ensure eligibility for programs is streamlined and, where possible, minimise the burden of regulation on businesses, community organisations and individuals
10. recognise the diversity of people, businesses and landscapes involved in agricultural production, including Indigenous landholders
11. where appropriate, use or collaborate with existing community networks, Indigenous organisations and communities, natural resource management organisations, industry and farmer groups
12. use a structured and, where appropriate, contestable process to identify the best value and highest quality ideas, talent and projects
13. as far as practicable, require co-investment to maximise program outcomes
14. consider proposals favourably that have enduring outcomes and avoid creating barriers to change or adaptation
15. consider potential qualitative and quantitative outcomes and expected public benefits as part of the assessment process for all programs and projects — not necessarily in monetary terms — and articulate why the funding is needed to achieve these benefits
16. ensure there are no ongoing operational or maintenance dependencies from the Fund when considering proposals for new or existing infrastructure
17. ensure that all new knowledge is shared and freely made available in the public domain.

## Vision

The Fund's vision is an innovative and profitable farming sector, a sustainable natural environment and adaptable rural, regional and remote communities — all with increased resilience to the impacts of drought and climate change.

## Aim

The Fund aims to enhance the public good by building drought resilience in Australia's agricultural sector, the agricultural landscape, and communities.

## Strategic priorities

The Fund has three inter-connected strategic priorities:

- economic resilience for an innovative and profitable agricultural sector
- environmental resilience for sustainable and improved functioning of farming landscapes
- social resilience for resourceful and adaptable communities.

## Objectives

The Fund's three objectives to achieve the strategic priorities will enhance the public good by building drought resilience through programs that will:

- grow the self-reliance and performance (productivity and profitability) of the agricultural sector
- improve the natural capital of agricultural landscapes for better environmental outcomes
- strengthen the wellbeing and social capital of rural, regional and remote communities.

## C. How to make a submission

### How to prepare a submission

Written submissions may range from a short comment outlining your views on a particular topic to a much more substantial document covering a range of issues. Where possible, you should provide evidence, such as relevant data and documentation, to support your views.

### Publishing submissions

- Each submission, except for any attachment supplied in confidence, will be published on the Commission's website shortly after receipt, and will remain there indefinitely as a public document.
- The Commission reserves the right to not publish material on its website that is offensive, potentially defamatory, or clearly out of scope for the inquiry or study in question.

### Copyright

- Copyright in submissions sent to the Commission resides with the author(s), not with the Commission.
- Do not send us material for which you are not the copyright owner — such as pictures, photos and newspaper articles — you should just reference or link to this material in your submission.

### In confidence material

- This is a public review and all submissions should be provided as public documents that can be placed on the Commission's website for others to read and comment on. However, information which is of a confidential nature or which is submitted in confidence can be treated as such by the Commission, provided the cause for such treatment is shown.
- The Commission may also request a non-confidential summary of the confidential material it is given, or the reasons why a summary cannot be provided.
- Material supplied in confidence should be clearly marked 'IN CONFIDENCE' and be in a separate attachment to non-confidential material.
- You are encouraged to contact the Commission for further information and advice before submitting such material.

### Privacy

- For privacy reasons, all **personal** details (e.g. home and email address, signatures and phone numbers) will be removed before they are published on the website.
- You may wish to remain anonymous or use a pseudonym. Please note that, if you choose to remain anonymous or use a pseudonym, the Commission may place less weight on your submission.

### Technical tips

- The Commission prefers to receive submissions as a Microsoft Word (.docx) files. PDF files are acceptable if produced from a Word document or similar text based software. You may wish to search the Internet on how to make your documents more accessible or for the more technical, follow advice from Web Content Accessibility Guidelines (WCAG) 2.0: <https://www.w3.org/TR/WCAG20/>
- Do not send password protected files.

- Track changes, editing marks, hidden text and internal links should be removed from submissions.
- To minimise linking problems, type the full web address (for example, <http://www.referred-website.com/folder/file-name.html>).

## How to lodge a submission

Submissions should be lodged using the online form on the Commission's website. Submissions lodged by post should be accompanied by a submission cover sheet, available from the Commission's website.

Online\*      [www.pc.gov.au/inquiries/current/future-drought-fund](http://www.pc.gov.au/inquiries/current/future-drought-fund)

Post\*          Future Drought Fund  
Productivity Commission  
GPO Box 1428  
Canberra ACT 2601

Phone          Please contact the Administrative Officer on 02 6240 3250

\* If you do not receive notification of receipt of your submission to the Commission, please contact the Administrative Officer.

## Due date for submissions

Please send submissions to the Commission by **3 March 2023**.



# Closing the Gap Review

## Terms of reference

I, Josh Frydenberg, pursuant to Parts 2 and 4 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake a review of progress on Closing the Gap.

## Background

The goal of the National Agreement on Closing the Gap (the Agreement) is to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians. The Agreement was developed in partnership between Aboriginal and Torres Strait Islander representatives and all Australian governments and commits governments to working in full and genuine partnership with Aboriginal and Torres Strait Islander people in making policies to close the gap.

The Agreement is built around four Priority Reform outcomes and 17 socioeconomic targets (and agreement to develop two additional targets, on inland waters and community infrastructure). The socioeconomic outcomes focus on measuring the life experiences of Aboriginal and Torres Strait Islander people. The Priority Reform outcomes are:

- Strengthening and establishing formal partnerships and shared decision-making.
- Building the Aboriginal and Torres Strait Islander community-controlled sector.
- Transforming government organisations so they work better for Aboriginal and Torres Strait Islander people.
- Improving and sharing access to data and information to enable Aboriginal and Torres Strait Islander communities to make informed decisions.

Parties to the Agreement agreed that the Productivity Commission will undertake a comprehensive review of progress every three years. The review is to inform the ongoing implementation of the Agreement by highlighting areas of improvement and emphasising where additional effort is required to close the gap. Parties have committed to undertaking actions if the review indicates that achievement of any of the targets that are set out in the Agreement is not on track.

This review will complement the Independent Aboriginal and Torres Strait Islander led review of progress.

## Scope of the research study

In undertaking the review, the Productivity Commission should:

1. analyse progress on Closing the Gap against the four Priority Reform outcome areas in the Agreement;
2. analyse progress against all of the socioeconomic outcome areas in the Agreement; and
3. examine the factors affecting progress.

The Productivity Commission should provide recommendations, where relevant, to the Joint Council on Closing the Gap on potential changes to the Agreement and its targets, indicators and trajectories, and on data improvements.

In undertaking the review, the Productivity Commission should have regard to all aspects of the Agreement, consider all parties' implementation and annual reports, and draw on evaluations

and other relevant evidence.

## Process

The Productivity Commission is to consult broadly, particularly with Aboriginal and Torres Strait Islander people, communities and organisations, and should invite submissions and provide other options for people to engage with the review. The Productivity Commission should publicly release a draft report and provide its final report to the Joint Council on Closing the Gap by the end of 2023. The final report will also be published.

**The Hon Josh Frydenberg MP**  
**Treasurer**

[Received 7 April 2022]

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# Closing the Gap Review

## Review paper 1: Engagement approach


**The engagement approach will guide how the Commission communicates with you on its review of the National Agreement.**

Successful engagement, and in particular with Aboriginal and Torres Strait Islander people, is critical to ensure the Review is effective. Effective engagement increases the visibility and understanding of issues and empowers people to have their say over decisions that affect their lives.

The Commission published its engagement approach on 6 July. The approach is underpinned by commitments under the National Agreement on Closing the Gap, most notably in relation to shared decision-making, cultural safety and responsiveness.

The engagement approach is intended to be dynamic and may be refined over time as the Commission learns from its engagement on the Review.

Please [subscribe to the Review](#) to stay informed and/or email the Closing the Gap Review team at [ctg.review@pc.gov.au](mailto:ctg.review@pc.gov.au) if you have any questions.

The Productivity Commission reviews the [National Agreement on Closing the Gap](#)  every 3 years.

During the review, we engage with Aboriginal and Torres Strait Islander people and their representatives.

The terms in the National Agreement guide our engagement approach. We set out the approach in this document.

It says:

- our objective and principles for how we engage for the review
- the ways we engage so that we are acting on our principles.

This document is about how we connect with the people we engage. It is not about the topics we engage on.

### Objective of the engagement approach

To conduct a review with shared decision-making to determine progress under the National Agreement.

This includes supporting self-determination through engagement.

### Right to self-determination

Supporting self-determination is a key part of shared decision-making.

For more information, see clause 32c(v) in the National Agreement.

The Australian Human Rights Commission says self-determination is an ‘on-going process of choice’ so that Indigenous peoples can meet their social, cultural and economic needs.

Find out more about the human right to self-determination

Engagement principles

We commit to these principles when we engage with Aboriginal and Torres Strait Islander people:

- **Fair and inclusive** for all people. We include those who may not often engage or be able to. Everyone who wants to contribute can do so and we hear them.
- **Transparent and open** in the ways we provide information and make decisions, and it is possible to assess this has happened.
- **Ongoing**, where engagement informs every stage of the review.
- **Reciprocal** with our information. At a minimum, we give feedback to Aboriginal and Torres Strait Islander people and their representatives. They know how we have understood their input and used it to inform decisions.

These elements are in the National Agreement under clauses 17, 32 and 59. They relate to:

- shared decision-making
- strong partnerships
- transforming government organisations.

Engagement practices

Engagement practices are ways to make sure we achieve our principles.

The principles are long term. The engagement practices can change with:

- what we learn along the way
- the needs of people we engage with.

Engagement principle	Engagement practice
Fair and inclusive	<ul style="list-style-type: none"><li>• Engage in a way that enables many viewpoints. Include people who may not often engage or be able to. In particular, supporting Aboriginal and Torres Strait Islander people impacted by the National Agreement (and their representatives).</li><li>• All who want to contribute have:<ul style="list-style-type: none"><li>◦ access to the same information at the same time</li><li>◦ fair and equitable chance to comment, with time and extra information (if needed) to understand the meaning of proposed decisions.</li></ul></li></ul>

Engagement principle	Engagement practice
	<ul style="list-style-type: none"> <li>Seek advice from Aboriginal and Torres Strait Islander people and their representatives on engagement so it is culturally safe. Provide ways for Aboriginal and Torres Strait Islander people to engage that respect and support their unique cultural identities.</li> </ul>
Transparent and open	<ul style="list-style-type: none"> <li>Communicate decisions publicly. People who took part in the review or want to know about it can easily find and access information.</li> <li>Engagement feedback is also public and easy to access, including who provided the feedback (except in certain cases*).</li> </ul>
Ongoing	<ul style="list-style-type: none"> <li>Engagement approach is consistent and ongoing across all phases of the review. It supports shared decision-making from the planning to findings and recommendations.</li> </ul>
Reciprocal	<ul style="list-style-type: none"> <li>The public can access themes and key messages from feedback. People who took part in the review can find out how their feedback informed our decisions, and our reasons for decisions.</li> <li>At a minimum, give Aboriginal and Torres Strait Islander people and their representatives a response about their feedback and how it informed decisions.</li> </ul>

\* Exceptions may be where the material includes content that could:

- defame someone
- discriminate against someone
- be from a third party who sent it without permission
- identify someone or be in confidence without a label.

We aim to resolve these issues with who gave us the material. If we can't resolve the issue, we won't publish the information.

This is in line with our processes for dealing with submissions.

This is the engagement approach for undertaking the three-yearly Review (the Review) on progress under the National Agreement on Closing the Gap (the Agreement). It outlines how the Productivity Commission aims to undertake engagement, in particular in a culturally safe way with Aboriginal and Torres Strait Islander people and their representatives.<sup>1</sup>

Note: Engagement in this context refers to *how* the Commission will facilitate connections, it does not cover *what* the Commission will engage on in respect of content.

The engagement approach sets out:

- the objective and principles to guide the Commission’s engagement for the Review
- what these principles mean in practice.

## Objective and guiding principles for engagement

### Objective

The objective of the Commission’s engagement approach is to facilitate shared decision-making in its Review to determine progress under the Agreement, including supporting self-determination through engagement.<sup>2</sup>

### Principles for engagement

Consistent with the National Agreement,<sup>3</sup> the Commission commits to engagement that is:

- *fair and inclusive* – a diversity of perspectives is supported and enabled, and all wanting to contribute and be heard have the opportunity to do so
- *transparent and open* – information is provided and decisions are made in a transparent and open manner, and it is possible to assess this has occurred
- *ongoing* – every stage of the Review is informed by engagement
- *reciprocal* – at a minimum, Aboriginal and Torres Strait Islander people and their representatives are provided feedback on how their input has been understood and informed decisions.<sup>4</sup>

### Engagement practices to reflect these principles

A set of engagement practices are designed to assess the Commission’s implementation of the principles. While the principles are long term, the engagement practices may adapt and evolve in response to what has been learned along the way. This includes taking account of the needs of participants, in particular Aboriginal and Torres Strait Islander people.


Principle	Practice
Engagement is fair and inclusive	<ul style="list-style-type: none"><li>• The Commission will seek to engage in a manner which supports and enables a diversity of viewpoints. This includes facilitating engagement opportunities for people and their representatives who may not otherwise engage (or be able to engage), in particular Aboriginal and Torres Strait Islander people and their representatives who are directly impacted by decisions under the Agreement.</li><li>• All who want to contribute are given access to the same/similar information at the same time, and have fair and equitable opportunities to comment on matters that are the subject of engagement. This includes providing Aboriginal and Torres Strait Islander people and their representatives enough time and additional information (if needed) to understand the implications of any proposed decisions.</li></ul>

Principle	Practice
	<ul style="list-style-type: none"> <li>The Commission will seek advice from Aboriginal and Torres Strait Islander people and their representatives on its engagement to ensure it is conducted in a culturally safe manner. This includes providing opportunities for Aboriginal and Torres Strait Islander people to engage, and in ways that respect and support their unique cultural identity.</li> </ul>
Engagement is transparent and open	<ul style="list-style-type: none"> <li>The Commission will communicate its decisions publicly and in a manner that can be readily accessed and understood by Review participants and interested parties.</li> <li>Engagement feedback is transparently shared and publicly accessible to Review participants, so all know what feedback was provided and by whom.<sup>a</sup></li> </ul>
Engagement is ongoing	<ul style="list-style-type: none"> <li>The engagement approach will be consistent and ongoing across all phases of the Review. Engagement will be at the forefront of shared decision-making from the initial stages of planning, to proposed findings and recommendations.</li> </ul>
Engagement is reciprocal	<ul style="list-style-type: none"> <li>Themes and important key messages from feedback are consolidated and made publicly available so Review participants know how feedback received has informed the Commission's decisions, with reasons for decisions clearly articulated.</li> <li>At a minimum, the Commission will provide Aboriginal and Torres Strait Islander people and their representatives with a response in relation to their feedback and how it has informed decisions.</li> </ul>

<sup>a</sup> Exceptions may occur where the material includes potentially defamatory content, potentially discriminatory content, content from a third party submitted without permission, personally identifying material or in confidence material not labelled. In these cases, the Commission would aim to resolve these issues with the party providing the material (as per our processes dealing with submissions) and only if unable to would the information not be published.

## Footnotes

1. This is consistent with the National Agreement and the Review terms of reference. [Locate Footnote 1 above](#)
2. Under the Agreement, one of the key elements of shared decision-making is that 'self-determination is supported, and Aboriginal and Torres Strait Islander lived experience is understood and respected' (clause 32c(v)). The Agreement provides guidance on what self-determination entails, by identifying that 'Aboriginal and Torres Strait Islander community control is an act of self-determination' (clause 44). This is consistent with the

Australian Human Rights Commission' framing of self-determination as an 'on-going process of choice' to ensure that Indigenous communities are able to meet their social, cultural and economic needs'(https://humanrights.gov.au/our-work/rights-and-freedoms/right-self-determination) and the Federal Attorney-General's Department as 'the entitlement of peoples to have control over their destiny and to be treated respectfully' (https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-self-determination  [Locate Footnote 2 above](#)

3. In particular, clauses 17, 32 and 59 in the National Agreement as they relate to shared decision-making, strong partnership elements and transforming government organisations. [Locate Footnote 3 above](#)
4. This is consistent with clause 59(f) in the National Agreement which states that engagement should be done in a way where Aboriginal and Torres Strait Islander people know what feedback has been provided and how governments have taken account of it in making decisions. [Locate Footnote 4 above](#)

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# Review of the National Agreement on Closing the Gap

## Review paper 2: Proposed approach and invitation to engage with the review



The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

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## The Productivity Commission

**The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.**

**The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.**

**Further information on the Productivity Commission can be obtained from the Commission's website ([www.pc.gov.au](http://www.pc.gov.au)).**

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## Review paper 2: Proposed approach and invitation to engage with the review

The Commission has released this paper to help people contribute to the review of the National Agreement on Closing the Gap ('the review'). It outlines:

- what the review is about
- a proposed approach for the review
- information the Commission is seeking
- how people can engage with the review.

Participants should not feel that they are restricted to comment only on matters raised in this paper. The Commission wishes to receive information on any issues that participants consider relevant to the review.

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## Key dates

Receipt of terms of reference	7 April 2022
Due date for submissions	12 December 2022
Release of draft report	June 2023
Final report to the Joint Council on Closing the Gap	December 2023

## Contact details

Phone	02 6240 3252
Freecall	1800 020 083
Email	<a href="mailto:CTG.Review@pc.gov.au">CTG.Review@pc.gov.au</a>
Website	<a href="http://www.pc.gov.au/inquiries/current/closing-the-gap-review">www.pc.gov.au/inquiries/current/closing-the-gap-review</a>

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# 1. About the review

In 2020, all Australian Governments and the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks) signed the National Agreement on Closing the Gap. The objective of the Agreement is ‘to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians’ (cl. 15).

The central pillars of the Agreement are its four Priority Reforms. These Reforms focus on changing the way governments work (figure 1).

- **Priority Reform One — Formal partnerships and shared decision making.** ‘Aboriginal and Torres Strait Islander people are empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership agreements’ (cl. 17a)
- **Priority Reform Two — Building the community-controlled sector.** ‘There is a strong and sustainable Aboriginal and Torres Strait Islander community-controlled sector delivering high quality services to meet the needs of Aboriginal and Torres Strait Islander people across the country’ (cl. 17b)
- **Priority Reform Three — Transforming government organisations.** ‘Governments, their organisations and their institutions are accountable for Closing the Gap and are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, including through the services they fund’ (cl. 17c)
- **Priority Reform Four — Shared access to data and information at a regional level.** ‘Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally-relevant data and information to set and monitor the implementation of efforts to close the gap, their priorities and drive their own development’ (cl. 17d).

Implementation of these Priority Reforms is intended to accelerate improvements in socioeconomic outcomes for Aboriginal and Torres Strait Islander people — the Agreement currently contains 17 socioeconomic outcome areas and associated targets.

## The Commission’s task

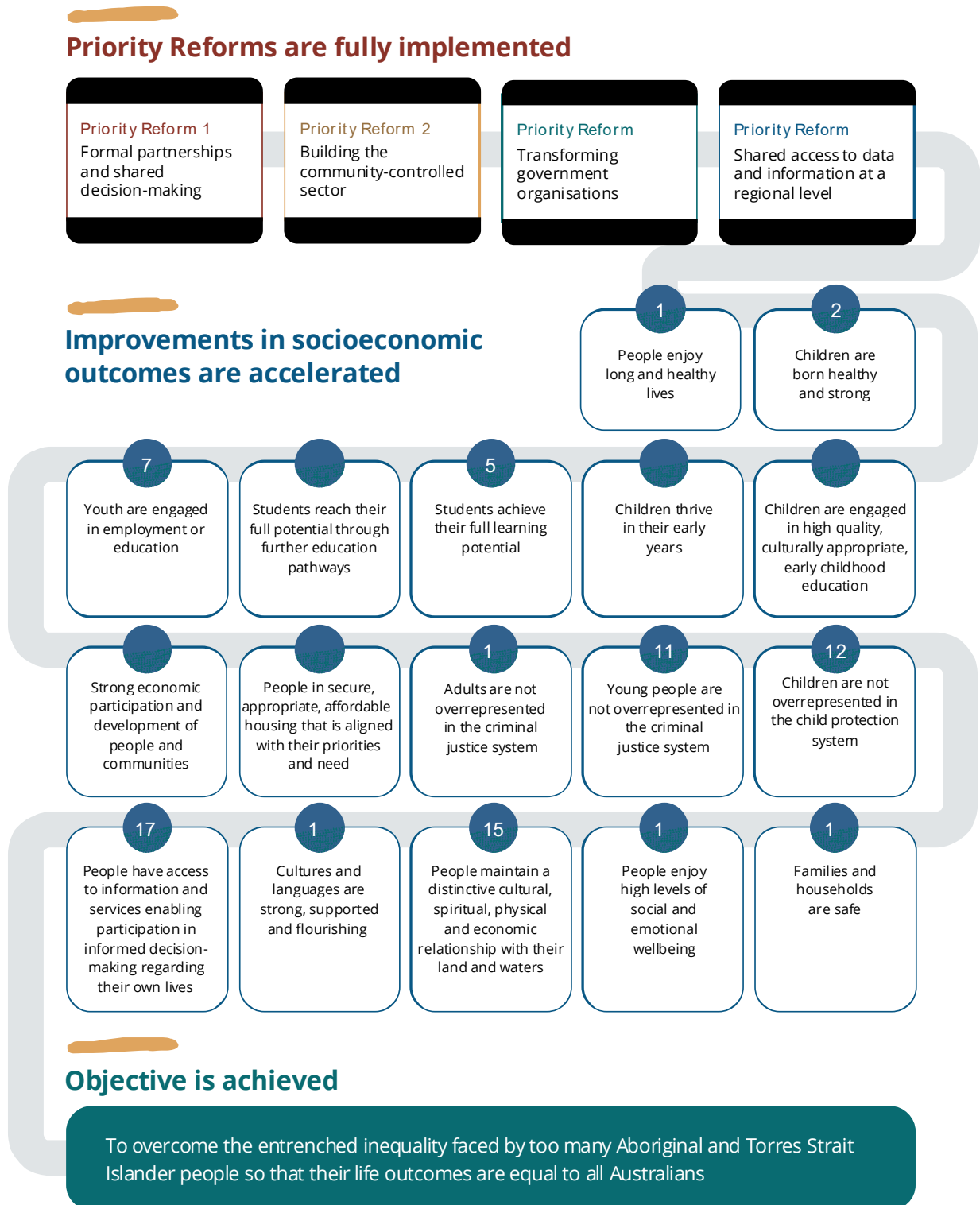
The Parties to the Agreement have committed to independent oversight and accountability of progress under the Agreement. This includes the Productivity Commission undertaking a comprehensive review of progress every three years; this is the first such review. It is an opportunity to highlight where governments are changing the way they operate, where outcomes are improving for Aboriginal and Torres Strait Islander people, and where additional effort is needed.

The Commission’s task involves assessing progress against the Agreement’s four Priority Reforms and 17 socioeconomic outcomes and to examine the factors affecting progress (appendix A contains the review’s terms of reference). Our final report will be delivered to the Joint Council on Closing the Gap by December 2023 and will be followed within 12 months by an Aboriginal and Torres Strait Islander-led review (cl. 121).

This paper:

- outlines the Commission’s proposed approach to the review (section 2)
- asks you questions about the proposed approach and the implementation of the Agreement (section 3)
- details how you can engage with the Commission (section 4).

Figure 1 – The program logic underpinning the National Agreement on Closing the Gap



Source: Productivity Commission (2022), *Annual Data Compilation Report*, p. 11.

## 2. A proposed way to assess progress

### Focusing on the Priority Reforms

The Priority Reforms represent a new way of working for governments and set the Agreement apart from its predecessor, which largely focused on setting targets for socioeconomic outcomes. The new Agreement represents a ‘fundamentally new way of developing and implementing programs that impact on the lives of Aboriginal and Torres Strait Islander people’ (cl. ). The Parties have agreed that implementing the Priority Reforms in full ‘will support an accelerated achievement of the socioeconomic targets’ (cl. ).

For these reasons, the Commission proposes to place a greater emphasis in this first review on progress towards the Priority Reforms and the factors affecting progress.

The Commission proposes to assess progress towards the Priority Reforms in two ways:

- first, by assessing progress against the specific commitments in the Agreement (table 1, pp. 4-5)
- second, by assessing the broad range of actions governments are taking, as set out in their Implementation Plans (table 2, p. 6). This assessment will include the use of case studies to illustrate what’s working, what isn’t working, and why.

In assessing progress on the commitments in the Agreement and the range of actions governments are taking, the Commission will be seeking to understand whether they will collectively lead to the structural changes envisaged by the Priority Reforms. The Agreement recognises that ‘structural change in the way Governments work with Aboriginal and Torres Strait Islander people is needed to close the gap’ (cl. ). Such change can be interpreted as deep and enduring changes to systems, processes and institutions. It is these sorts of changes that the Commission would like to pay particular attention to in the review, including through case studies.

### Using case studies to understand progress

Australian governments have committed to a large number of actions to give effect to the Priority Reforms (and to achieve the socioeconomic outcomes). Preliminary analysis by the Commission indicates that there are over 2 individual actions listed in jurisdictions’ Implementation Plans.

It is not feasible to assess each of the actions in detail, so the Commission plans to use case studies to help understand what governments are doing, whether what they are doing is effective, and the factors contributing to success. The benefit of using a case study approach is that it allows for in-depth exploration of issues in their real-life settings. Case studies will be supported by quantitative data and analysis where appropriate and available.

The case studies are expected to vary in terms of their subject, scope and level of detail. For example, they could involve looking at a suite of initiatives within a given policy area (for example, child health), the effects of a national policy or a policy implemented in a single jurisdiction, or a detailed examination of a location-specific program in a particular place. The Commission is seeking to use multiple case studies for each of the Priority Reforms and some socioeconomic outcomes.

The Commission is considering using the following criteria to select case studies:

- the extent to which Aboriginal and Torres Strait Islander people’s knowledge and perspectives can inform the case study

- how strongly the relevant government actions link to the Priority Reforms or relevant socioeconomic outcomes
- prioritising actions relating to the five policy priority areas identified in the Agreement (justice, social and emotional wellbeing, housing, early childhood care and development, Aboriginal and Torres Strait Islander languages) or the sectors targeted for strengthening (early childhood care and development, housing, health and disability)
- the potential learning benefits of the policy, where policies or actions that are being implemented in individual communities or jurisdictions could be scaled up
- the resources allocated to the policy action (if more money is allocated to something it is in general more important to understand whether it is achieving positive outcomes).

Table 1 – Each Priority Reform comes with some specific commitments<sup>a</sup>

<b>Priority Reform One</b> Formal partnerships and shared decision making	<p>Under the Agreement the Parties commit to 'building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap' (cl. 28). This will be supported by specific commitments including:</p> <ul style="list-style-type: none"> <li>• undertaking a stocktake of partnership arrangements (cl. 36a)</li> <li>• reviewing and strengthening existing partnerships (cl. 36b)</li> <li>• reporting on the review of existing partnerships to Joint Council (cl. 36c)</li> <li>• establishing a joined up approach to five policy priority areas (cl. 38). The five policy priority areas are: justice, social and emotional wellbeing, housing, early childhood care and development, and Aboriginal and Torres Strait Islander languages</li> <li>• establishing six new place-based partnerships (cl. 39).</li> </ul>
<b>Priority Reform Two</b> Building the community-controlled sector	<p>Under the Agreement the Parties commit to 'building formal Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap' (cl. 42). This will be supported by specific commitments including:</p> <ul style="list-style-type: none"> <li>• identifying sectors for joint national strengthening effort every three years through Sector Strengthening Plans (cl. 49)</li> <li>• developing the first four Sector Strengthening Plans (cl. 52). The first four sectors are: early childhood care and development, housing, health and disability</li> <li>• agreeing additional sectors for Sector Strengthening Plans (cl. 53)</li> <li>• implementing measures to increase the proportion of services delivered by Aboriginal and Torres Strait Islander organisations, particularly community-controlled organisations, through:             <ul style="list-style-type: none"> <li>– funding prioritisation policies that preference Aboriginal and Torres Strait Islander organisations in decisions about the provision of services to Aboriginal and Torres Strait Islander people and communities (cl. 55a)</li> <li>– allocating a meaningful proportion of funding to Aboriginal and Torres Strait Islander organisations where new funding initiatives are decided by governments that are intended to service the broader population (cl. 55b).</li> </ul> </li> </ul>
<b>Priority Reform Three</b> Transforming government organisations	<p>Under the Agreement all Parties commit to 'systemic and structural transformation of mainstream government organisations to improve accountability and respond to the needs of Aboriginal and Torres Strait Islander people' (cl. 5 ), 'to ensure government mainstream institutions and agencies are free of institutionalised racism and promote cultural safety in line with the transformation elements' (cl. ) and to 'challenge unconscious biases that</p>



result in decisions based on stereotypes' (cl. 61). This will be supported by specific commitments including:

- sharing and publishing engagement approaches that give effect to the transformation elements on engagement (cl. 63)
- engaging with Aboriginal and Torres Strait Islander representatives before, during and after emergencies such as natural disasters and pandemics (cl. 64)
- Government Parties' investment in mainstream institutions and agencies not coming at the expense of investment in Aboriginal and Torres Strait Islander community-controlled services (cl. 66)
- identifying, developing or strengthening an independent mechanism, or mechanisms, that will support, monitor and report on the transformation of mainstream agencies and institutions (cl. 67).

**Priority Reform Four**  
Shared access to data and  
information at a regional level

Under the Agreement the Parties agree that location-specific data and information is most useful to Aboriginal and Torres Strait Islander organisations and communities 'to obtain a comprehensive picture of what is happening in their communities and make decisions about their futures' (cl. 7 ). Recognising this, the Parties have agreed to establish data projects in up to six locations across Australia (cl. 74).

a. The table does not list commitments relating to annual reporting or future consideration of changes to the Agreement which are common across the Priority Reforms.

## Assessing progress on the socioeconomic outcomes

The Commission regularly publishes data on how the socioeconomic outcomes are tracking against the targets in the Agreement. This is a requirement of the Agreement and is an important accountability mechanism. The review does not intend to replicate that work and instead intends to go beyond the data and explore the factors affecting progress, especially how what governments are doing is influencing socioeconomic outcomes.

Given the Agreement is in its early stages and there is limited data available on some socioeconomic outcomes, the Commission proposes to focus on a subset of outcomes. The selection of outcomes is expected to be guided by:

- what we hear from Aboriginal and Torres Strait Islander people about which socioeconomic outcomes matter most
- available data on progress, so that socioeconomic outcomes that are showing healthy signs of progress and ones that are not can be further explored (at the national or jurisdictional level). This approach aligns with the Agreement, which notes that the review's findings will inform ongoing implementation 'by highlighting areas of improvement, and [emphasising] where additional effort is required' (cl. 123).
- whether there is a clear link with the Priority Reforms (for example, the Justice Policy Partnership under Priority Reform One might be influencing incarceration rates). Taking this approach is intended to build understanding about how the theory of change underpinning the Agreement is playing out in the real world.

## Potential changes to the Agreement

In addition to assessing progress and what works in relation to the Priority Reforms and socioeconomic outcomes, the terms of reference for the review ask the Commission to 'provide recommendations, where relevant, to the Joint Council on Closing the Gap on potential changes to the Agreement and its targets, indicators and trajectories, and on data improvements' (appendix A).

This could include making suggestions on matters relating to the governance and accountability mechanisms in the Agreement, as well as ways to overcome any barriers to the successful implementation of the Priority Reforms and associated commitments in the Agreement. The review is also an opportunity to look at the data that are used to measure progress. For example, there may be challenges in the interpretation and collection of data for targets and indicators. If these challenges cannot be overcome — whether through agreement on data sources used or additional data collection — the Commission may make suggestions to the Joint Council about modifications to the Agreement to ensure Parties can be held accountable for its ongoing implementation.

Table 2 – Examples of actions listed by governments that seek to contribute to the Priority Reforms<sup>a</sup>

<b>Priority Reform One</b> Formal partnerships and shared decision making	<ul style="list-style-type: none"> <li>• Creating or strengthening policy partnerships in sectors (for example, education, health and housing) to drive Aboriginal and Torres Strait Islander community-led approaches to service delivery.</li> <li>• Establishing place-based partnerships to respond to local priorities.</li> <li>• Funding and reviewing partnerships (for example, through partnership stocktakes).</li> <li>• Identifying ways to work more effectively across governments and improve outcomes in policy priority areas, starting with adult and youth incarceration.</li> <li>• Changing engagement strategies, such as meeting with communities to develop shared milestones and achievements for partnerships.</li> </ul>
<b>Priority Reform Two</b> Building the community-controlled sector	<ul style="list-style-type: none"> <li>• Developing peak bodies and/or partnerships across governments, Aboriginal and Torres Strait Islander Community Controlled Organisations (ACCOs), and Aboriginal and Torres Strait Islander organisations and communities.</li> <li>• Supporting capacity building of ACCOs and their workforces.</li> <li>• Improving funding delivery to ACCOs (for example, by using longer grant periods and pooled funding arrangements).</li> <li>• Increasing funding for Aboriginal and Torres Strait Islander organisations or diverting existing funding to Aboriginal and Torres Strait Islander organisations.</li> </ul>
<b>Priority Reform Three</b> Transforming government organisations	<ul style="list-style-type: none"> <li>• Addressing racism and promoting cultural safety within government organisations (for example, through training and enhanced reporting mechanisms).</li> <li>• Integrating government service provision with Aboriginal and Torres Strait Islander organisations and people (for example, where ACCOs and government services complement one another, or where ACCOs connect people to government services).</li> <li>• Improving government organisations' engagement with Aboriginal and Torres Strait Islander people (for both policy development and service delivery).</li> <li>• Embedding understanding of Aboriginal and Torres Strait Islander cultures in government organisations and service delivery (including through Reconciliation Action Plans and similar initiatives).</li> </ul>
<b>Priority Reform Four</b> Shared access to data and information at a regional level	<ul style="list-style-type: none"> <li>• Developing data strategies and plans (including digital inclusion strategies) which embed principles of Indigenous data sovereignty.</li> <li>• Publishing regional data and information on dashboards.</li> <li>• Developing data sharing agreements and enacting legislation to allow information to be shared safely.</li> <li>• Working with communities to identify locations for, and implement, community data projects.</li> </ul>

a. Government Parties' Implementation Plans include comprehensive lists of actions against each Priority Reform — this table is a high-level summary of the type of actions listed against each Priority Reform.

### 3. The Commission is seeking your views

To inform our assessment of progress against the Agreement, the Commission would like to hear your views and perspectives on:

- the proposed approach to the review outlined in this paper
- ideas for case studies to demonstrate what is working well and where improvement is needed
- progress against each of the four Priority Reforms and the socioeconomic outcomes.

The following pages include specific questions relating to each of these areas but the Commission welcomes all input on the Agreement, its implementation and this review.

The questions here are not intended to limit what information you share with the Commission, and submissions or discussions you have with the Commission do not need to address all of the questions.

Section 4 of this paper details how you can engage with the Commission.

#### Questions relating to the Commission's proposed approach to the review

- How could the Commission's proposed approach to the review (described in section 2 of this paper) be strengthened? Are there alternative ways of assessing progress?
- How can the Commission's review be done in a way that will complement the Aboriginal and Torres Strait Islander-led review?
- The Commission published an engagement approach in July 2022. It included the principles of engagement being fair and inclusive, open and transparent, ongoing and reciprocal. Do you have any feedback on the engagement approach or how we can put those principles into practice throughout the review? The engagement approach can be found at [www.pc.gov.au/inquiries/current/closing-the-gap-review/engagement](http://www.pc.gov.au/inquiries/current/closing-the-gap-review/engagement).

#### Questions relating to the selection of case studies

- The Commission would like to include case studies that cover the range of actions that governments are taking to implement the Priority Reforms (summarised in table 2). The case studies would focus on what's working, and why, and what isn't working, and why.
- Can you provide examples of specific government policies or programs that are making a strong contribution (or are posing a barrier) to progressing the Priority Reforms or socioeconomic outcomes that the Commission should focus on as case studies? Please also provide any existing evaluations, data or other research that could support the Commission's analysis.
- What criteria should the Commission use to select case studies? Are the Commission's suggested criteria in section 2 appropriate? Are there other criteria the Commission should use?

## Questions relating to Priority Reform One

- The Agreement states that 'when Aboriginal and Torres Strait Islander people have a genuine say in the design and delivery of services that affect them, better life outcomes are achieved' (cl. 6).
  - Can you expand on why genuine partnership and shared decision making are important for Closing the Gap, and what success looks like?
- To what extent are government agencies sharing decision making with Aboriginal and Torres Strait Islander people?
- What actions are governments taking that are making a difference to shared decision making? Are there actions that are working or not working?
- The Agreement defines the strong partnership elements, which can be used to evaluate partnerships, but does not define what a partnership is. What is a partnership for the purpose of the Agreement?
- Can you provide examples — whether before or after the Agreement was signed (July 2020) — where partnerships or shared decision making have made a difference (positively or negatively) in the community?
- How should government engagement processes take account of the diversity of views and perspectives in individual communities and with respect to particular policy matters?
- What are the barriers to making formal partnerships or shared decision making work in practice? These could relate, for example, to resourcing constraints, insufficient time allowed for feedback, or where partnerships are developed and operationalised in a transactional (rather than relational) way.
- Do existing partnerships meet the strong partnership elements in the Agreement? To what extent:
  - are partnerships accountable to communities and the part of government that is responsible for the relevant policy area?
  - are formal agreements in place where it is clear who is doing what?
  - is decision making shared between Aboriginal and Torres Strait Islander people and governments?
- What is the best way to measure progress on Priority Reform One?
- Do you have any observations on the Justice Policy Partnership and how it is being implemented?
- Do you have any observations on place-based partnerships? How will the six new place-based partnerships differ from existing place-based approaches?
- Have the development of formal partnerships and shared decision making been appropriately funded? If not, what are the funding needs created by these initiatives? What governance arrangements are needed around funding arrangements?
- How does Priority Reform One interact with the other three Priority Reforms?

## Questions relating to Priority Reform Two

- The Agreement states that Aboriginal and Torres Strait Islander community-controlled services ‘achieve better results, employ more Aboriginal and Torres Strait Islander people and are often preferred over mainstream services’ (cl. 43).
  - Can you provide examples of where Aboriginal and Torres Strait Islander community-controlled services provide better outcomes, compared to mainstream service providers? What are the main reasons for why better outcomes are achieved?
- Have you observed any changes in the way governments are providing funding to Aboriginal and Torres Strait Islander community-controlled organisations, or increases in funding?
- What funding models work well for ACCOs and why?
- What actions are governments taking that are making a difference to the community-controlled sector? Are there actions that are not working?
- What is working well in the community-controlled sector, and what barriers still need to be addressed to strengthen the sector?
- What are the lessons from the first round of Sector Strengthening Plans? Will they help strengthen the community-controlled sector? Why, or why not? And how?
- For sectors that have previously not had a strong community-controlled presence, what is needed to support and strengthen community control?
- How can we determine if the community-controlled sector is getting stronger? Are there factors to consider in addition to the elements of a strong community-controlled sector stated in the Agreement (cl. 45)?
- How does Priority Reform Two interact with the other three Priority Reforms?

## Questions relating to Priority Reform Three

- The Agreement commits governments to ‘systemic and structural transformation of mainstream government organisations to improve accountability and respond to the needs of Aboriginal and Torres Strait Islander people’ (cl. 5 ).
  - Are there areas of government — policy development or service provision — that have improved over time to better meet the needs of Aboriginal and Torres Strait Islander people? Which areas? And how did they improve?
- Which government organisations or parts of government organisations are most in need of transformation in terms of being free of institutionalised racism and providing services that are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, and why?
- What actions are governments taking that are making a difference to how they operate and work with Aboriginal and Torres Strait Islander people? Are there actions that are not working?
- Priority Reform Three is about what governments do but it also involves a commitment to transformation in the services that governments fund (for example, where they award contracts for the delivery of particular services). How can governments deliver on that commitment?
- What are the barriers to progress in transforming government organisations, and how can they be overcome? What are the enablers for progress in transforming government organisations?
- Are there examples of government institutions that have undergone significant and deliberate cultural change? What made that change possible?
- Governments around Australia have each committed to developing or strengthening an independent mechanism (or mechanisms) to ‘support, monitor, and report on the transformation of mainstream agencies and institutions’ (cl. 7).
  - What features do these mechanisms need to have?
  - How should they operate, including in their reporting functions and ongoing engagement with Aboriginal and Torres Strait Islander people?
  - Do you have any observations on work done to date by governments to put the independent mechanism in place?
- How does Priority Reform Three interact with the other three Priority Reforms?

## Questions relating to Priority Reform Four

- The Agreement states that '[s]hared access to location specific data and information will support Aboriginal and Torres Strait Islander communities and organisations to support the achievement of the first three Priority Reforms' (cl. 10.1.1).
- How will shared access to data support shared decision making, build the community-controlled sector and transform government organisations? Are there examples where this has happened in the past?
- What actions are governments taking that are making a difference to Aboriginal and Torres Strait Islander communities and organisations' access to data? Are there actions that are not working?
- What are the priority policy areas and geographic locations where data are needed for Aboriginal and Torres Strait Islander people to participate in shared decision making? Similarly, what are the priority data needed to build the community-controlled sector and transform government organisations?
- What institutional arrangements will ensure that Aboriginal and Torres Strait Islander communities and organisations can access the data and information they need?
- What barriers do government agencies face in providing data? Are there examples where those barriers have been overcome in the past? How was that done?
- What barriers do Aboriginal and Torres Strait Islander communities and organisations face in accessing and using data? Are there examples where those barriers have been overcome in the past? How was that done?
- What structures and protocols need to be in place so that governments can share data with Aboriginal and Torres Strait Islander communities and organisations? What are the checks and balances needed to ensure data are shared appropriately?
- Four data projects are already under way: one in each of Blacktown (New South Wales), the Kimberley region (Western Australia), Maningrida (Northern Territory) and the western suburbs of Adelaide (South Australia). Two others are still to be established (in Victoria and Queensland).
  - Do you have any comments on how the data projects are progressing?
  - Has the process of choosing locations been appropriate?
  - Will the data projects meet the needs of the community? How? If not, why not?
- How does Priority Reform Four interact with the other three Priority Reforms?

## Questions relating to the socioeconomic outcomes

- Which socioeconomic outcomes should the Commission focus on in the review, and why?
- Are the targets and indicators for the socioeconomic outcomes appropriate?
- Can you point to instances where implementing the Priority Reforms is having a tangible effect on the socioeconomic outcomes?

## 4. How you can engage with the review

The Commission has already met with a number of organisations and will continue to do so throughout the review. We are conducting engagement in line with the engagement approach published in July 2022 (available at [www.pc.gov.au/inquiries/current/closing-the-gap-review](http://www.pc.gov.au/inquiries/current/closing-the-gap-review)).

The Commission is flexible in how you can engage with us. You can:

- make a submission (which can include text, images and audio-visual files)
- send us a brief comment
- meet with us virtually (which could become an oral submission if that is your preference)
- meet with us in person.

To make a submission or brief comment visit [www.pc.gov.au/inquiries/current/closing-the-gap-review](http://www.pc.gov.au/inquiries/current/closing-the-gap-review).

If you want to speak with us, including to arrange a meeting or make an oral submission, you can call us on 02 6240 3252. You can also email us at [CTG.Review@pc.gov.au](mailto:CTG.Review@pc.gov.au).

Submissions to feed into the Commission's draft report are due by 12 December 2022.

The Commission will be holding meetings on the review in 2022 and 2023.

The timeline for the review is available at [www.pc.gov.au/inquiries/current/closing-the-gap-review](http://www.pc.gov.au/inquiries/current/closing-the-gap-review).



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## A. Terms of reference

I, Josh Frydenberg, pursuant to Parts 2 and 4 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake a review of progress on Closing the Gap.

### Background

The goal of the National Agreement on Closing the Gap (the Agreement) is to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians. The Agreement was developed in partnership between Aboriginal and Torres Strait Islander representatives and all Australian governments and commits governments to working in full and genuine partnership with Aboriginal and Torres Strait Islander people in making policies to close the gap.

The Agreement is built around four Priority Reform outcomes and 17 socioeconomic targets (and agreement to develop two additional targets, on inland waters and community infrastructure). The socioeconomic outcomes focus on measuring the life experiences of Aboriginal and Torres Strait Islander people. The Priority Reform outcomes are:

- Strengthening and establishing formal partnerships and shared decision-making.
- Building the Aboriginal and Torres Strait Islander community-controlled sector.
- Transforming government organisations so they work better for Aboriginal and Torres Strait Islander people.
- Improving and sharing access to data and information to enable Aboriginal and Torres Strait Islander communities to make informed decisions.

Parties to the Agreement agreed that the Productivity Commission will undertake a comprehensive review of progress every three years. The review is to inform the ongoing implementation of the Agreement by highlighting areas of improvement and emphasising where additional effort is required to close the gap. Parties have committed to undertaking actions if the review indicates that achievement of any of the targets that are set out in the Agreement is not on track.

This review will complement the Independent Aboriginal and Torres Strait Islander led review of progress.

### Scope of the inquiry

In undertaking the review, the Productivity Commission should:

1. analyse progress on Closing the Gap against the four Priority Reform outcome areas in the Agreement;
2. analyse progress against all of the socioeconomic outcome areas in the Agreement; and
3. examine the factors affecting progress.

The Productivity Commission should provide recommendations, where relevant, to the Joint Council on Closing the Gap on potential changes to the Agreement and its targets, indicators and trajectories, and on data improvements.

In undertaking the review, the Productivity Commission should have regard to all aspects of the Agreement, consider all parties' implementation and annual reports, and draw on evaluations and other relevant evidence.

## Process

The Productivity Commission is to consult broadly, particularly with Aboriginal and Torres Strait Islander people, communities and organisations, and should invite submissions and provide other options for people to engage with the review. The Productivity Commission should publicly release a draft report and provide its final report to the Joint Council on Closing the Gap by the end of 2023. The final report will also be published.

**The Hon Josh Frydenberg MP**

Treasurer

[Received 7 April 2022]



# **Review of the National Agreement on Closing the Gap**

Review paper 3: What we have heard to date — first phase of engagement



The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

### The Productivity Commission

**The Productivity Commission is the Australian Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.**

**The Commission’s independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.**

**Further information on the Productivity Commission can be obtained from the Commission’s website ([www.pc.gov.au](http://www.pc.gov.au)).**

### Review paper 3: What we have heard to date — first phase of engagement

The Commission has released this paper to reflect the knowledges, perspectives and experiences of the Aboriginal and Torres Strait Islander people and organisations and government bodies we have met with during the second half of 2022. Further engagement will occur in 2023.

### Key study dates

Receipt of terms of reference	7 April 2022
Due date for submissions	12 December 2022
Release of draft report	July 2023
Final report to the Joint Council on Closing the Gap	December 2023

### Contact details

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Website	<a href="http://www.pc.gov.au/inquiries/current/closing-the-gap-review">www.pc.gov.au/inquiries/current/closing-the-gap-review</a>

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The cover artwork was adapted from

*River of Knowledge*

by Luke Penrith





## About the review

In 2020, all Australian governments and the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks) signed the National Agreement on Closing the Gap (the Agreement). The objective of the Agreement is ‘to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians’ (cl. 15).

The central pillars of the Agreement are its four Priority Reforms. These Reforms focus on changing the way governments work.

- Priority Reform One — Formal partnerships and shared decision-making. ‘Aboriginal and Torres Strait Islander people are empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership arrangements’ (cl. 17a).
- Priority Reform Two — Building the community-controlled sector. ‘There is a strong and sustainable Aboriginal and Torres Strait Islander community-controlled sector delivering high quality services to meet the needs of Aboriginal and Torres Strait Islander people across the country’ (cl. 17b).
- Priority Reform Three — Transforming government organisations. ‘Governments, their organisations and their institutions are accountable for Closing the Gap and are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, including through the services they fund’ (cl. 17c).
- Priority Reform Four — Shared access to data and information at a regional level. ‘Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally relevant data and information to set and monitor the implementation of efforts to close the gap, their priorities and drive their own development’ (cl. 17d).

Implementation of these Priority Reforms is intended to accelerate improvements in socioeconomic outcomes for Aboriginal and Torres Strait Islander people — the Agreement currently contains 17 socioeconomic outcomes and associated targets.

## The Commission’s task

The Parties to the Agreement have committed to independent oversight and accountability of progress under the Agreement. This includes the Productivity Commission undertaking a comprehensive review of progress every three years; this is the first such review. It is an opportunity to examine whether governments are changing the way they operate, where outcomes are improving for Aboriginal and Torres Strait Islander people, and where additional effort is needed.

The Commission’s task involves assessing progress against the Agreement’s four Priority Reforms and 17 socioeconomic outcomes and examining the factors affecting progress (appendix A contains the review’s terms of reference). Our final report will be delivered to the Joint Council on Closing the Gap in December 2023 and will be followed within 12 months by an Aboriginal and Torres Strait Islander-led review (cl. 121).



# Introduction

The Commission is continuing to engage with Aboriginal and Torres Strait Islander people, organisations and communities, government agencies and non-government organisations (NGOs) to inform the review. Successful engagement, in particular with Aboriginal and Torres Strait Islander people, is critical to ensure the review is effective.

The Commission published *Review paper 1: Engagement approach* on 6 July 2022, which sets out how we will engage over the course of the review and includes four principles of engagement.

- *Fair and inclusive* of all people. We include those who may not often engage or be able to. Everyone who wants to contribute can do so and we hear them.
- *Transparent and open* in how we provide information and make decisions.
- *Ongoing*, where engagement informs every stage of the review.
- *Reciprocal* with our information. At a minimum, we give feedback to Aboriginal and Torres Strait Islander people and their representatives are provided feedback on how their input has been understood and informed decisions.

This paper is part of our commitment to these engagement principles, in particular the second and fourth principles — transparency and openness, and reciprocity. It aims to reflect what we have heard so far and seeks feedback on whether we have understood participants correctly.

The first phase of engagement, which this paper summarises, predominantly involved engaging with organisations and government agencies. Engagement will continue in 2023 with priority given to hearing from communities and people not represented by organisations. This will help to ensure that the Commission hears from people who ordinarily do not have a voice in consultation processes. The next phase of engagement will also include places that the Commission was not able to visit in 2022. The Commission will not be able to visit all regions and communities during the review but intends to visit a range of remote, rural and metropolitan locations.

This paper does not represent the Productivity Commission's views. It summarises what Aboriginal and Torres Strait Islander people and organisations and government bodies have told the Commission during meetings in the first phase of engagement during the second half of 2022. This first phase included meetings with 69 Aboriginal and/or Torres Strait Islander organisations (including community controlled organisations, peaks, councils and regional authorities, service providers and other organisations), and some government agencies and NGOs. Most meetings with Aboriginal and Torres Strait Islander organisations have been part of visits by the Commission to locations across Australia. Meetings with government agencies, mainly through the jurisdictional representatives of the Partnership Working Group, have mostly been conducted online. The Commission has also received public submissions, which are not included in this summary but are available on the Commission's website.

## Feedback on the Commission's approach to the review

The Commission sought feedback on its engagement approach. Aboriginal and Torres Strait Islander organisations and government representatives were supportive of the Commission's engagement approach.



A number of Aboriginal and Torres Strait Islander organisations and government representatives mentioned engagement fatigue about reports and consultations, with some saying that Aboriginal and Torres Strait Islander people felt that their voices have not been heard on the issues that they are most concerned about.

The Commission was advised that sufficient time is required for engagement in Aboriginal and Torres Strait Islander communities. Engagement in communities may require several days and should allow time for communities to properly engage, reflect and come back to discussions with considered views in line with community practice.

A number of Aboriginal and Torres Strait Islander organisations and government representatives suggested utilising existing structures within jurisdictions (ranging from structures with recognised cultural authority such as community determined groups to peak bodies and service organisations) to maximise reach. We also heard that the Commission should ensure it meets with people and communities and not only organisations.

The Commission also sought feedback on its proposed approach to assessing progress of the Agreement. Aboriginal and Torres Strait Islander organisations and government parties expressed strong support for the Productivity Commission's review to focus on the Priority Reforms over the Agreement's socioeconomic outcomes.

## Initial feedback on implementation of the Agreement

### There is support — although not universal — for the Agreement

We heard that there is appetite for change within government, and people want the Agreement to work. One Aboriginal and Torres Strait Islander community-controlled organisation (ACCO) said they want to 'do it right' under the Agreement and not see it fail. Some government representatives said that while there is a way to go with transparency and accountability of actions under the Implementation Plans, they want genuine implementation of the Agreement.

There were, however, some concerns raised about the Agreement from some Aboriginal and Torres Strait Islander organisations. One organisation thought the 'pillars' (Priority Reforms) under Closing the Gap were confused, and others said the Agreement stopped at the State border and did not capture regional views or foster accountability for core issues for each region.

A number of Aboriginal and Torres Strait Islander organisations thought the siloed sector focus was an issue with the Closing the Gap architecture and did not reflect the interdependency of the socioeconomic outcomes. Another Aboriginal and Torres Strait Islander organisation thought the Closing the Gap framework was not useful. We also heard from some groups that Closing the Gap employed deficit-based lenses and language.

## Responsibility across and within departments can be unclear

Some Aboriginal and Torres Strait Islander organisations said there was a lack of clarity and accountability about which agencies are responsible for actions under Closing the Gap. We also heard that decisions about implementing actions under Closing the Gap were not being driven down within departments. A government agency noted that the responsibility and accountabilities of 'lead' agencies on Closing the Gap initiatives needs to be clarified, and mechanisms are needed to ensure that senior department executives understand and engage with the initiatives in their Implementation Plans.

We heard that in one jurisdiction, Joint Council meetings allow peak groups to speak at the table with ministers and get a response. But we also heard that the meetings to date have been more about government providing updates and seeking endorsement rather than forums enabling decision making to be shared.

Aboriginal and Torres Strait Islander organisations and government representatives highlighted the importance of different parts of government working together. Lack of coordination was noted across what are clearly related areas (for example, alcohol and other drugs, health and mental health).

With regard to funding programs, we heard that government agencies should be looking more at the links between sectors, such as housing and employment or health. Siloed funding means that opportunities that could be mutually and positively reinforcing are being missed. One example is where separate funding blocks are going to childcare and to language programs in the same location, missing opportunities to explore language initiatives in childcare settings.

## Implementation has not moved beyond **'business as usual'**

The primary concern about the Agreement is that implementation has not moved beyond 'business as usual'. We heard that government progress was slow, and some Aboriginal and Torres Strait Islander organisations and one non-Indigenous NGO said the Agreement has not led to actions that will bring about change. As a result, some Aboriginal and Torres Strait Islander organisations felt they needed to continually advocate for government to fulfill its obligations under the Agreement. One Aboriginal and Torres Strait Islander organisation said they thought the National Agreement on Closing the Gap has had no positive impacts on service delivery on the ground.

Reflecting the slow implementation, some peak bodies noted that Implementation Plans produced so far have contained few new actions. One ACCO looked at the Implementation Plans and found they offered nothing that would help ACCOs in their field to grow.

A key concern was the lack of time for Aboriginal and Torres Strait Islander organisations to meaningfully contribute to the development of, or respond to, government-developed Implementation Plans — organisations in some jurisdictions abstained from providing feedback on the plans because they appeared to be already decided. Some government parties acknowledged that the first Implementation Plans were rushed and not as useful as they could be and that they intend to make the next ones more detailed, with clearer actions and delivery timeframes. But we also heard that one jurisdiction has developed a framework for assessing the alignment of proposed policy initiatives with Priority Reforms.

One Aboriginal and Torres Strait Islander organisation noted that decision making is a slow process, which requires time to share information and for the community to discuss and respond. Some Aboriginal and Torres Strait Islander organisations said that they have declined requests to participate in consultations

where they would have had inadequate time to discuss the issues with their communities. An Aboriginal local government council shared that governments do not talk to ‘grass roots’ communities.

## There is a congested policy landscape which can create confusion about the role of the Agreement

Some organisations raised concerns about a congested policy landscape — there are many related policies, agreements, and decision-making structures in place and it is not always clear how these fit with the Agreement, its Priority Reforms and the Commission’s review. In particular, there is a lack of clarity about how the Agreement fits with Constitutional recognition and the Voice to Parliament, Treaty processes (in particular in Victoria and Queensland), Local Decision Making initiatives (including in the Northern Territory and New South Wales), and other regional structures, such as Empowered Communities.

## Initial feedback on the Priority Reforms and socioeconomic outcomes

### Priority Reform One — Formal partnerships and shared decision-making

The Parties commit to building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap (cl. 28).

### There are some positive signs of governments working in partnership ...

We heard from some Aboriginal and Torres Strait Islander organisations that in certain instances governments are taking small steps to change the ‘business as usual’ approach to relationships and engagement with Aboriginal and Torres Strait Islander people and organisations. Several Aboriginal and Torres Strait Islander organisations have commented that some state agencies appear to be more willing to partner, trial new approaches and engage in shared decision making than others. This appears to be especially true when there is supporting legislation, established Native Title or during a crisis like the COVID-19 pandemic, which incentivises government to share in decision making and shifts the balance of power.

Some Aboriginal and Torres Strait Islander organisations pointed out that successful engagement and shared decision making occurred where the Aboriginal and Torres Strait Islander party or parties had pushed governments to ‘come to the table’, thereby changing the dynamic of top-down, government-led initiatives.

### ... but commitment to the partnership elements and shared decision making varies substantially in practice

We heard that government still has a long way to go to change the way it works with communities and ACCOs. One organisation said that the government was still trying to understand what shared decision making actually means, while another said there is a risk that different definitions and objectives could arise across different governments. Other organisations stated that governments are still reluctant to relinquish any control or shift the balance of power, which makes shared decision making and community control virtually impossible.

Despite some positive steps, we were told that progress is incremental and not where it needs to be. Aboriginal and Torres Strait Islander organisations and one non-Indigenous organisation said that different levels of government are making different efforts to engage. This can also be true for different agencies within the same jurisdiction.

Although governments state commitments to co-designing programs, some Aboriginal and Torres Strait Islander organisations said that opportunities for co-design felt tokenistic or non-existent in practice. Several organisations said that government wanted to engage in co-design but began every conversation by either managing expectations around budget or saying there was a cap on funding regardless of what the need was in the community. Some Aboriginal and Torres Strait Islander organisations stated that, on occasion, co-design began after government had prepared a proposed approach to what they assumed the issue to be with very little time for organisations to engage before a decision is made.

There were concerns by one representative body that there were no guidelines for engagement with Aboriginal communities and that renewables leases on land would be rushed through without Aboriginal and Torres Strait Islander people being involved in the decision. Another organisation said there were no Aboriginal or Torres Strait Islander perspectives accounted for in the National Plan to End Violence Against Women and Girls, or the causes of violence recognised by the Plan. A number of Aboriginal and Torres Strait Islander organisations stated that when there is a political agenda (such as law and order), any commitments related to Priority Reform One are completely forgotten.

One peak body said that government is retaining decision-making authority on policy, and engaging too late, or not enough, with Aboriginal and Torres Strait Islander people. This was echoed by a number of organisations who said that governments provide unrealistic timeframes for community engagement on policies, Implementation Plans and strategies, and do not put the time into investing in relationships with Aboriginal and Torres Strait Islander communities. Several Aboriginal and Torres Strait Islander organisations stated that governments' or mainstream NGOs' efforts to partner with ACCOs were often a 'box ticking' exercise. We also heard that some relationships were 'not true partnerships', and ACCOs were not allowed to be part of decision making around policy or funding.

Some Aboriginal and Torres Strait Islander organisations said that when they wanted to bring in new, culturally appropriate Aboriginal and Torres Strait Islander decision-making models, government departments said that it did not fit with their processes, rules or risk profile. This is driving perceptions that Aboriginal and Torres Strait Islander organisations need to fit 'round pegs into square holes' with government, undermining the sense of true partnership. Many ACCOs highlighted that when it came to funding for programs, money is given with stipulations on how it can be spent, with little flexibility.

There was also concern that some government actions since the commencement of the National Agreement on Closing the Gap appear to contradict the intent of Priority Reform One and it is not clear if or how governments will be held accountable for these actions. An example highlighted in two jurisdictions was the introduction of justice reforms that increase custodial mandates (such as reversal of presumptions for bail). This predictably increased incarceration of children and young people — despite both those jurisdictions

signing the Justice Policy Partnership which specifically aims to reduce the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system.

## Partnerships do not always reflect shared expectations

Resourcing for partnerships was a concern for some Aboriginal and Torres Strait Islander organisations. We were told that Aboriginal and Torres Strait Islander people want to set the priorities and provide input but they need funding support for this to happen.

One organisation voiced concerns that shared decision making was not fully possible if government 'still holds all the purse strings', instead advocating for shared investment to bring about shared decision making. Some organisations highlighted the inherent power imbalance and conflict present in a relationship when the government partner to an agreement or arrangement provides operational funding for the other partner. Several organisations stated that governments have unrealistic expectations about the cost and resourcing it takes to provide services across a region and often choose partners that have less culturally informed programs but cheaper proposals.

We heard that there can be a tendency for government to be selective about who they work with, and for only the hard programs to be handed over to ACCOs, or for prospective partners to ask for a letter of support and then disappear.

We also heard that governments appear to cherry pick what issues they consult on and when that consultation will occur. This leads to partnering on already decided solutions, rather than reaching joint agreement with the community about what their priorities actually are and how they might address them.

Expectations of the various parties to a partnership can differ. For example, we heard that mainstream health service providers want Aboriginal community controlled health services to do the 'hard yakka' of talking with communities, but give nothing back. Another Aboriginal community controlled health service said they were simply solving problems for the hospital rather than working in partnership. One Aboriginal and Torres Strait Islander organisation is experiencing this as a gap between policy decision making and implementation, with government wanting to make the decisions while expecting local organisations to implement them.

## Concerns that some voices and communities are not being heard

Many Aboriginal and Torres Strait Islander organisations told us that some voices are not being heard or need stronger representation through peak groups and/or community organisations, in particular the voices of:

- people in remote regions that are far away from key decision makers
- children and young people
- women, as often only men have a 'seat at the table'
- Stolen Generations survivors and descendants
- members of the Aboriginal and Torres Strait Islander LGBTQ+ community.

We were told that there needs to be space for grass roots organisations and unincorporated groups to have their voices heard. Some Aboriginal and Torres Strait Islander organisations also told us that regional representation is needed to ensure regional priorities are being heard, and that both state and regional bodies are needed for shared decision making. Several organisations highlighted that the organisations that governments choose to work with can sometimes be seen as 'creatures of government' by the community they claim to represent, and that national bodies are sometimes empowered at the expense of regional or state bodies. We heard from some Aboriginal and Torres Strait Islander organisations that the more that governments gravitate towards engaging with peak bodies in their jurisdiction, the less their voices are able to be heard.

At the same time, peak bodies told us that they are at risk of burnout from the demands of processes relating to the National Agreement on Closing the Gap, for which they are underfunded. This was echoed by a smaller organisation who said contributing to partnerships can create a significant burden for the individuals involved.

## Priority Reform Two — Building the community-controlled sector

The Parties commit to building formal Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap (cl. 42).

### Funding models do not fit ACCO models and priorities

A consistent message we heard from ACCOs in relation to building the community-controlled sector was the need for more control over funding and capacity building to deliver their services.

We heard that ACCOs were expected to fit the way government works, rather than the other way around. We heard that some government agencies come to ACCOs with an operating model already in mind, and that it can be very hard if an ACCO does not fit this operating model — as they miss out on funds. We heard that requirements are not always compatible with the types of programs ACCOs deliver. This particularly affects ACCOs that provide wrap-around services or trauma-informed services that involve spending a lot of time with individual clients or families.

At the core of this issue is a view that governments do not recognise that the scope of particular issues are different for Aboriginal and Torres Strait Islander people. ACCOs spoke about how governments do not understand that they work holistically and with families, because governments were only accustomed to supporting individuals — but this does not work with Aboriginal and Torres Strait Islander communities where solutions depend on working with the whole family. When services are delivered to Aboriginal and Torres Strait Islander communities in a mainstream frame, they may be unfit for purpose and sometimes cause more harm. For example, we were told that in the child protection sector, survivor-led organisations can deliver models of care that focus on healing, cultural connection and family relationships, but they are not resourced to do this work. As another example, we heard that mainstream feminist approaches to domestic and family violence fail to take account of causes emanating from intergenerational trauma and disempowerment.

Many Aboriginal and Torres Strait Islander organisations said that the funding they receive does not cover the full cost of providing services, such as funding for transportation costs to deliver health services and remote service delivery. We also heard that government funding often does not cover investment in infrastructure and capital works that are needed to effectively deliver — or improve — services.

There was a clearly articulated need for ongoing funding arrangements and longer terms grants to improve continuity in program and service delivery by ACCOs. We heard examples of very short funding (including 12-month grants) for the delivery of essential services, such as health services.

Government funding was said to come with conditions, or ‘hoops’ to jump through, which can present a barrier to obtaining funding. One Aboriginal and Torres Strait Islander organisation said it was easier to deal with a major bank than seek government funding. An ACCO said that the status quo continues to be a transactional approach where ACCOs are required to work to a pre-determined budget and key performance indicators (KPIs) identified by government, which undermines their capacity to define the factors that communities regard as most value, and design and provide effective services that target those. Some ACCOs said they were spending a lot of time getting contracts right — educating funders about appropriate



key performance indicators that align with the needs of Aboriginal and Torres Strait Islander clients. One organisation simply put it as government KPIs being ‘unfit for purpose’.

Several Aboriginal and Torres Strait Islander organisations said they are now saying no to programs and funding if they do not fit with their priorities and models of care. If they can find other funding sources, they are avoiding government funding with its paperwork and strings attached, or being more strategic about which grants they select to avoid too many small grants that can end up costing more to apply for and report against than the funds they receive. We also heard that ‘lifting and shifting’ a mainstream service — that is not meeting the needs of Aboriginal and Torres Strait Islander communities — to ACCOs to deliver simply shifts the risk onto the ACCO.

## Challenges in building and sustaining the workforce to support strong sectors

Aboriginal and Torres Strait Islander organisations and ACCOs raised concerns with us regarding building their workforces and retaining staff. For example, an Aboriginal and Torres Strait Islander organisation suggested that community members without formal teaching qualifications should be able to teach languages in schools, given they are often the only people with the knowledge and capacity to pass on these languages.

ACCOs are spending a lot of resources on developing Aboriginal and Torres Strait Islander staff but have difficulty retaining them when government salaries and benefits are better. Several Aboriginal and Torres Strait Islander organisations told us about the inequity of government or non-local workers being provided with free or subsidised housing and better benefits than local workers. This was highlighted during meetings in the Torres Strait, where Commonwealth and State government services employ local workers who are then not available for ACCOs to employ.

Sometimes funding is provided for specific positions that do not match the needs of the organisation — for an administrative position, for example, when a qualified counsellor was needed for one Aboriginal health and wrap-around service provider.

Some ACCOs said that they have a high turnover of staff because of burnout, including from high workload, lack of support and difficulties accessing professional development. Working with clients experiencing trauma can place an additional pressure on staff.

One Aboriginal and Torres Strait Islander organisation spoke of a ‘workforce crisis’, with medical procedures being cancelled because of the lack of doctors and nurses. We heard in one jurisdiction that there was a shortage of health care professionals in remote areas. In other jurisdictions, ACCOs told us they cannot offer competitive wages, often losing staff to private companies or government.

## Funding is shifting but the processes do not serve all ACCOs

Aboriginal and Torres Strait Islander organisations told us that some funding is being redirected from mainstream organisations to ACCOs, and that the National Agreement on Closing the Gap has allowed some peak organisations to grow with more funding. But we also heard frustration that a significant amount of funding is going to mainstream rather than Aboriginal and Torres Strait Islander service providers.

We heard from some Aboriginal service providers that some jurisdictions are starting to assume that ACCOs immediately have the capability to take on and effectively deliver government services and as a result, governments are shifting towards sharing risk and service delivery. But some other Aboriginal and Torres Strait Islander service providers said that governments were still reluctant to transfer control to ACCOs.

Aboriginal and Torres Strait Islander services in one jurisdiction told us that government was trying to direct more of its procurement of certain services to ACCOs and providing assistance for ACCO capacity development. However, one service provider noted that the timing of this assistance meant that smaller ACCOs may have been disadvantaged in the process, given they would have had to split their time and limited resources between applying for assistance for capacity building and writing tenders to provide services, while larger, more established ACCOs could simply do the latter.

We heard that significant costs are imposed on ACCOs by government funding requirements. We heard that there is limited support and information available to assist small ACCOs and start-ups to access and navigate funding processes and this detracts from the resources and time that they have available to deliver services to the community. One Aboriginal medical service said there was a lack of feedback from government on unsuccessful grant applications and questioned whether Aboriginal service providers were receiving genuine consideration in grant processes.

One government agency noted that ACCOs face cumbersome reporting burdens — often comparatively greater than the requirements placed on non-Indigenous mainstream providers. An ACCO told us the reporting burden is high for the relatively small funding they receive — and they needed to do more work to justify funding in comparison to mainstream service providers. One ACCO told us they have little visibility of funding opportunities, and the funding that is available often comes with short-notice and onerous reporting requirements.

## Competition for funding and resources can undermine collaboration

Some ACCOs expressed the desire to work with other ACCOs and we heard about some consortiums or partnerships of ACCOs that are highly successful. However, other Aboriginal and Torres Strait Islander organisations told us that having to compete with each other for ACCO-specific funding was reducing the ways in which ACCOs work with each other. There are concerns that local ACCOs now need to compete for funding with ACCOs that are from outside the area, despite having stronger community credibility and language capability. We heard that in remote areas people would prefer local ACCOs be funded rather than interstate fly-in-fly-out services.

We also heard that in some sectors or places, government itself is acting as a competitor — for example, in running a dental clinic, and that government organisations are also competing with ACCOs — not just for funding, but for resources such as staff and accommodation. We also heard an example where a government department took over delivery of a program that an Aboriginal and Torres Strait Islander organisation had developed and trialled.

Concerns were raised that NGOs are not providing services with the same cultural awareness and safety. A view was expressed that mainstream service providers have been able to grow and become more financially sustainable while delivering programs that do not appear to be improving community outcomes. The child protection sector was highlighted as an example of a sector that is dominated by mainstream providers who lack cultural capability. An Aboriginal and Torres Strait Islander organisation suggested that a policy was needed that required NGOs to involve ACCOs in the services they deliver to ensure cultural safety. Another Aboriginal and Torres Strait Islander organisation said that Priority Reform Two must not detract from accountability of mainstream service providers to deliver better and culturally safe services for Aboriginal and Torres Strait Islander people.

We heard from one ACCO that some NGOs are unwilling to step aside to allow ACCOs to deliver culturally appropriate services due to a focus on financial sustainability, which treats Aboriginal people as 'commodities'. One Aboriginal and Torres Strait Islander organisation noted that the government's approach was to give funding to large NGOs to then engage with ACCOs, rather than the other way around, and another said that everything goes to the local NGO, even though ACCOs should be prioritised.



## Monitoring and evaluation needs to support effective programs

We heard a concern that government funding decisions lack proper scrutiny and rigorous evaluation. This makes it difficult to identify effective programs and build the evidence base to scale them. Some Aboriginal and Torres Strait Islander organisations said they wanted to commission an external evaluation of certain programs but were unsuccessful in seeking government funding to support this. We also heard that the ‘evidence hurdle’ for ACCOs to receive program funding can be higher than for mainstream service deliverers.

## Priority Reform Three — Transforming government organisations

The Parties commit to systemic and structural transformation of mainstream government organisations to improve accountability and respond to the needs of Aboriginal and Torres Strait Islander people. (cl. 58)

### The transformation of government is proving to be challenging

Some organisations suggested that governments still need to decide what they are trying to achieve to transform and how to achieve it. We heard that some jurisdictions are doing better at this than others. For example, one jurisdiction is enlisting their Public Service Commission to take a lead role in the transformation of government organisations.

We heard that there is often ignorance within government about the implications of the Agreement and organisations’ obligations under Priority Reform Three beyond agencies or teams that are focused on Aboriginal and Torres Strait Islander matters. That said, we have heard from government representatives in two jurisdictions that there is progress being made on how Closing the Gap considerations can be integrated with cabinet and budget processes.

Several Aboriginal and Torres Strait Islander organisations and government representatives told us that awareness of Priority Reform Three (and the Agreement more broadly) is variable across the public sector and is often concentrated towards the top of the organisational hierarchy; however, further down the hierarchy, in regional offices, and at the service delivery level, awareness — and change — is often inconsistent or non-existent. We also heard that even where positive legislative changes have been made, behaviours at the service level can be slow to adjust, or legislation can be misinterpreted (child protection services and policing were given as examples by some Aboriginal and Torres Strait Islander organisations).

Many organisations told us that changes tend to be made only when they are driven by particular people in, and outside of, government. This leaves the process of transformation heavily reliant on individuals and subject to key personnel risk. Similarly, a lack of change was cited by some due to certain personnel remaining in government agency positions. A number of organisations expressed the need for structures embedded in agencies and the public service that reduced reliance on personalities for change.

Both government agencies and other organisations noted that politicians and public servants have a crucial role in the transformation of government organisations. One ACCO made the point that it should not be left to Aboriginal and Torres Strait Islander people within government to progress change. Related to this, it was suggested by some Aboriginal and Torres Strait Islander organisations that public servants’ employment contracts should reflect their obligations under the National Agreement on Closing the Gap. We heard that this is happening in at least one jurisdiction.

## Institutional racism was raised as a continuing problem

A range of organisations spoke of the need for government agencies to address institutional and systemic racism. At the same time, one peak ACCO commented that it is hard to work with government agencies on Priority Reform Three when government employees are reluctant to acknowledge or talk about racism. Another organisation relayed an instance where an allegation of racism at a government agency was investigated but their perception was that this was only done so that the agency could be seen to be doing something, with no meaningful follow-up actions taken.

Some specific areas of government service delivery were singled out:

- Aboriginal and Torres Strait Islander people and organisations in multiple jurisdictions spoke of racism by police. This included specific mention of targeting of Aboriginal and Torres Strait Islander children. Government representatives in one jurisdiction singled out the justice sector more broadly as an area where progress is slow.
- One organisation told us that health is another area where racism is an ongoing problem. We heard that racism is a barrier to Aboriginal and Torres Strait Islander people accessing and receiving quality care in mainstream services but also that it is hampering the ability of those services to recruit and retain Aboriginal and Torres Strait Islander staff.
- Other Aboriginal and Torres Strait Islander organisations mentioned racism in schools, and ineffective efforts to address the problem.

Many government agencies are rolling out training in cultural awareness, or capability, or competence, or safety. We heard that such training is largely ineffective and on its own will not address racism. One organisation went as far as saying that such training was a waste of money.

## Concerns that governments do not recognise the value of culture

Some Aboriginal and Torres Strait Islander organisations claimed that governments do not understand or recognise the value of culture. For example, one organisation we spoke with pointed out that in contrast to government they make staffing decisions so that they can appropriately service people where avoidance relationships are involved. Other organisations said that mainstream services do not recognise that connection to Country and kin are critical to recovering from trauma and mental health more broadly.

We were told that some governments do not appreciate how Aboriginal and Torres Strait Islander culture varies from place to place. This has implications for what governments do directly but also for who they fund: as noted earlier, an ACCO from one area does not necessarily have the capability to deliver services in another area.

The importance of culture was discussed in relation to land management, corrections, education, domestic violence and health (including mental health). People spoke with us about the value of culture in itself as well as the flow on effects of valuing culture. For example, we were told that meeting children's cultural needs can improve school attendance and achievement, incorporating Aboriginal and Torres Strait Islander perspectives on causality could improve approaches to domestic and family violence, and culturally informed maternity care can improve health outcomes for women and babies.

The importance of culture was frequently mentioned in relation to child protection. We were told that government models of child protection are based on western understandings that in some ways do not align with Aboriginal and Torres Strait Islander understandings and approaches, particularly in relation to the role of the whole family. One ACCO told us about how they had success with a culturally appropriate family-led decision-making model but the relevant government department stated that it did not fit into their process. Another ACCO told us how after decades working in child protection where the most successful results have come from working with the whole

family they are still told not to forget that the child is the (sole) focus. In another jurisdiction, an ACCO complimented their child protection agency's decision to employ an in-house cultural advisor.

## Government approaches to engagement are often seen as tokenistic and underdone

Some organisations we met with noted some improved practices by government in relation to engagement, including consultation happening earlier than in the past.

A larger number of organisations noted various ways in which they regarded governments' practices in relation to engagement to be deficient. We heard from multiple organisations that when engagement does happen it is often unclear how the information provided by Aboriginal and Torres Strait Islander people has been used and whether it has had any impact on government decisions.

The most frequently cited issue in relation to engagement was that governments do not allow sufficient time for engaging on policy proposals, particularly given Aboriginal and Torres Strait Islander organisations' desire or requirement to properly engage with community (this is discussed in relation to Priority Reform One above).

## Priority Reform Four — Shared access to data and information at a regional level

Shared access to location specific data and information will support Aboriginal and Torres Strait Islander communities and organisations to support the achievement of the first three Priority Reforms (cl. 69).

### Data are important, but there are gaps and quality issues

Many review participants emphasised the importance of data, especially for service planning, advocating for funding, and allocating funding across different regions.

However, sometimes, the data and information that participants considered valuable in assessing need and service delivery are not collected. For example, a number of organisations pointed to a lack of expenditure reporting and service mapping in their location or policy area. Several organisations also noted a lack of program evaluations, particularly independent evaluations.

Even where data are available, people said that there are issues with the quality. For example, we heard that:

- government data are sometimes inaccurate — one reason for this was that sampling may exclude certain groups of people or communities
- data are not sufficiently disaggregated by geography, type of service or groups of people with different characteristics
- data on the same topic held by different organisations or information systems are not aggregated or collected in a consistent way
- data across different topics are not linked, which makes it difficult to get a holistic picture
- the way in which indicators are conceptualised or specified does not suit the community or does not align with their values.

We also heard that the data collected is not always of value to Aboriginal and Torres Strait Islander organisations, communities and people. A couple of Aboriginal and Torres Strait Islander organisation noted

that governments should seek to understand what data communities and Aboriginal and Torres Strait Islander organisations need, and how governments might be able to provide it.

We heard a number of examples where Aboriginal and Torres Strait Islander organisations had had the opportunity to shape the data collected by government — for example by working with government to set KPIs for programs.

In addition to poor quality data, we also heard that data is sometimes not appropriately contextualised or translated into meaningful messages. For example, one Aboriginal and Torres Strait Islander organisation pointed to the need for data to be placed in its regional context, because similar numbers for different regions could mean very different things.

### Some people can access data and information, but many cannot

Some organisations said they were able to obtain the data they needed, either by requesting it from government or undertaking their own data projects. Several participants pointed to data sharing initiatives with government that made or intended to make data more readily accessible.

However, many others said that getting access to government data is difficult. Police, justice and health data in particular were highlighted as hard to access.

Some Aboriginal and Torres Strait Islander organisations observed that knowing someone with access is often key to getting data. Reasons given for why governments are not sharing data included that governments do not trust community organisations with data, and that government officials are risk averse.

### Indigenous data sovereignty is not always recognised

In general, organisations we engaged with considered that there is a lack of recognition of Indigenous data sovereignty. They noted that data is often taken from Aboriginal and Torres Strait Islander people, with no feedback or ability to obtain the data for their own analysis, or no improvement in community services. Some observed that Aboriginal and Torres Strait Islander people and organisations are not leading, or sometimes even involved in, data and research projects about them. This meant that they cannot influence what is studied to ensure that the projects are beneficial to them.

One Aboriginal and Torres Strait Islander organisation said that primary health networks are trying to access ACCOs' data, but ACCOs do not want to provide the data. Another said that it often submits data to its peak body, but does not know how it is used.

Some Aboriginal and Torres Strait Islander organisations told us that they do not have sufficient capability or resourcing to undertake data activities (such as collection and linkage), and do not feel supported to increase their capability. Those that do collect their own data said that it often does not match official data, and that governments and other mainstream organisations sometimes do not believe their data. One organisation said that the type of data that Traditional Owners want to convey do not align with governments' ideas about what is needed for an evidence base.

### Progress on community data projects has been slow

We also heard that progress on many of the community data projects has been slow. The reasons given for this varied across jurisdictions, and included changes in personnel at the relevant government agency and the need to first complete other related work.

One Aboriginal and Torres Strait Islander organisation also told us that the selection of the location of the community data project in their jurisdiction was not community driven.

## Socioeconomic outcomes

In accordance with our proposed approach for the review (Review paper 2: *Proposed approach and invitation to engage with the review*), our first phase of engagement (up to the end of 2022) largely focused on understanding progress against the Priority Reforms. However, while they were not the main focus of the discussions, many participants shared their perspectives on the Agreement's socioeconomic outcomes (SEOs).

### More holistic policy responses are needed to progress the SEOs

We heard that policies targeting specific outcomes often neglect the important interdependencies between the SEOs. For example, many participants identified that better housing outcomes would lead to improvements in other domains such as mental and physical wellbeing, education, employment and family violence. Others noted that mental health issues and housing are not given adequate consideration as factors that contribute to people entering the criminal justice system. Several participants also stated that insecure housing, alcohol and other drug use, as well as undiagnosed brain injuries and other mental health issues, can increase the risk of family violence.

Siloed and inconsistent policy responses both within and across jurisdictions were highlighted as inhibiting progress against the SEOs. One participant noted the lack of a coordinated approach to addressing family violence between the relevant Commonwealth departments and agencies. Another organisation pointed out that the Commonwealth and respective State jurisdiction are yet to prepare a joint strategy for improving Aboriginal employment outcomes. The introduction of justice laws that increase custodial mandates (previously discussed under Priority Reform One) was seen by several organisations as a stark example of jurisdictions enacting new policies that contradict their commitments to the SEOs, in this case the adult criminal justice outcome (SEO 10) and the youth criminal justice outcome (SEO 11).

Participants also raised the issue that governments do not focus enough of their effort on prevention and early intervention. For example, participants stated that in the criminal justice system there was insufficient effort on youth diversionary programs or post release support services which help reduce recidivism. Similar issues were also raised for the health, family violence and child protection SEOs.

### There are some concerns about how the SEOs are measured

A common concern regarding the SEOs was that some targets do not reflect an understanding of the type of effort needed to support better outcomes. For example, several Aboriginal and Torres Strait Islander organisations suggested that in addition to a target to increase the number of students completing Year 12 or an equivalent qualification, measures should also account for education quality, teaching standards and the importance of an Aboriginal and Torres Strait Islander curriculum (including classes in language).

There can also be tension between the intended objectives of the SEOs and their targets. We heard that progress towards increasing Native Title (Target 15a) does not necessarily lead to maintaining an economic relationship with the land (one aspect of SEO 15). This is because Prescribed Body Corporates or Native Title groups cannot use land granted under a Native Title decision to secure finance which would allow them to develop the land. Moreover, Native Title settlements can be detrimental to social and emotional wellbeing due to the trauma exposed during the process.

Other themes that we heard with respect to SEOs and their targets included:

- The existing set of SEOs leave out or do not direct attention to important related areas. These include adult education and literacy, disability, alcohol and other drugs, and homelessness.
- National level targets can become or be seen as irrelevant in certain locations. Some participants suggested that the targets should be set at a regional level to reflect and drive effort towards local

priorities. As an example, *Target 15a: By 2030, a 15 per cent increase in Australia's landmass* subject to Aboriginal and Torres Strait Islander people's legal rights or interests, was seen as having limited value in the Kimberley as more than 90 per cent of its land is already under native title. In contrast, another participant contended that reducing family violence to zero was an unachievable and utopian target.

- One participant proposed that interim targets should be established. Specifically, it was suggested that interim targets for the two criminal justice outcomes (SEOs 11 and 12) that are no more than 18 months apart would allow for a better understanding of progress towards the 2031 outcome.

## The data does not tell the whole story

There were also concerns that the SEO data may provide an inaccurate picture of some outcomes. Specific areas that were raised included:

- issues with how data are collected. Examples provided by participants included educational attendance data being vastly different from the attendance rates observed by teachers and incorrect recording of home addresses resulting in homelessness being captured in reporting of overcrowding
- issues with the scope or representativeness of the measures. Examples included the family violence measure (SEO 13) not including sexual or other forms of violence and youth justice data (SEO 11) not capturing 'paper arrests' especially in regional areas.
- issues with aggregating and harmonising data from different agencies and /or disparate systems. This was raised primarily in relation to health data and family violence data.

In addition, multiple participants highlighted that progress data remains unavailable for some targets such as *Target 17: By 2026, Aboriginal and Torres Strait Islander people have equal levels of digital inclusion*, while outdated data in areas such as family violence obscures an understanding of the true level of need.

## A. Terms of reference

I, Josh Frydenberg, pursuant to Parts 2 and 4 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake a review of progress on Closing the Gap.

### Background

The goal of the National Agreement on Closing the Gap (the Agreement) is to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians. The Agreement was developed in partnership between Aboriginal and Torres Strait Islander representatives and all Australian governments and commits governments to working in full and genuine partnership with Aboriginal and Torres Strait Islander people in making policies to close the gap.

The Agreement is built around four Priority Reform outcomes and 17 socioeconomic targets (and agreement to develop two additional targets, on inland waters and community infrastructure). The socioeconomic outcomes focus on measuring the life experiences of Aboriginal and Torres Strait Islander people. The Priority Reform outcomes are:

- Strengthening and establishing formal partnerships and shared decision-making.
- Building the Aboriginal and Torres Strait Islander community-controlled sector.
- Transforming government organisations so they work better for Aboriginal and Torres Strait Islander people.
- Improving and sharing access to data and information to enable Aboriginal and Torres Strait Islander communities to make informed decisions.

Parties to the Agreement agreed that the Productivity Commission will undertake a comprehensive review of progress every three years. The review is to inform the ongoing implementation of the Agreement by highlighting areas of improvement and emphasising where additional effort is required to close the gap. Parties have committed to undertaking actions if the review indicates that achievement of any of the targets that are set out in the Agreement is not on track.

This review will complement the Independent Aboriginal and Torres Strait Islander led review of progress.

### Scope of the inquiry

In undertaking the review, the Productivity Commission should:

1. analyse progress on Closing the Gap against the four Priority Reform outcome areas in the Agreement;
2. analyse progress against all of the socioeconomic outcome areas in the Agreement; and
3. examine the factors affecting progress.

The Productivity Commission should provide recommendations, where relevant, to the Joint Council on Closing the Gap on potential changes to the Agreement and its targets, indicators and trajectories, and on data improvements.

In undertaking the review, the Productivity Commission should have regard to all aspects of the Agreement, consider all parties' implementation and annual reports, and draw on evaluations and other relevant evidence.

## Process

The Productivity Commission is to consult broadly, particularly with Aboriginal and Torres Strait Islander people, communities and organisations, and should invite submissions and provide other options for people to engage with the review. The Productivity Commission should publicly release a draft report and provide its final report to the Joint Council on Closing the Gap by the end of 2023. The final report will also be published.

**The Hon Josh Frydenberg MP**

Treasurer

[Received 7 April 2022]



## B. Who we met with

The Commission spoke with the following organisations during phase one of our engagement in 2022:

Organisation/Body name
Aarnja Ltd
Aboriginal and Torres Strait Islander Legal Service (Qld)
Aboriginal Drug & Alcohol Council
Aboriginal Family Legal Services WA
Aboriginal Family Support Services
Aboriginal Health Council of South Australia
Aboriginal Housing Victoria
Aboriginal Land Council of Tasmania
Aboriginal Medical Service (AMS Redfern)
Aboriginal Peak Organisations Northern Territory
ACT Government Partnership Working Group (PWG) representative
Australian Education Research Organisation
Australian Human Rights Commission – Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner
Australian Local Government Association PWG representative
Binarri-Binyja Yarrawoo Aboriginal Corporation
BlaQ Aboriginal Corporation
Broome Regional Aboriginal Medical Service
Bundiyarra Aboriginal Community Aboriginal Corporation
BushMob Aboriginal Corporation
Cape York/Gulf Remote Area Aboriginal & Torres Strait Islander Child Care - Advisory Association Inc
Central Australian Aboriginal Congress
Coalition of Aboriginal and Torres Strait Islander Peak Organisations
Coota Girls Aboriginal Corporation
Danila Dilba Health Service
Deadly Connections Community & Justice Services
Djirra
Federation of Victorian Traditional Owners Corporations
First Peoples' Assembly of Victoria
Garnduwa Amboorny Wirnan Aboriginal Corporation
Gelganyem Limited
Geraldton Regional Aboriginal Medical Services
Gumatj Corporation Ltd
Indigenous Education Consultative Meeting
Institute of Urban Indigenous Health
Kimberley Land Council
Kinchela Boys Home Aboriginal Corporation

Organisation/Body name
Koorie Youth Council
Kurbingui Youth and Family Development
Larrakia Nation
Laynhapuy Homelands Aboriginal Corporation
Lena Passi Women's Shelter Association
Literacy For Life Foundation
Mura Kosker Sorority
National Aboriginal and Torres Strait Islander Legal Service
National Indigenous Australians Agency (NIAA) Commonwealth Government PWG representative
Neeraj Gill and Maree Toombs
Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara Women's Council
NIAA Arnhem
North Australian Aboriginal Justice Agency
North Qld Land Council
NSW Aboriginal Education Consultative Group
NSW Aboriginal Land Council
NSW Child, Family and Community Peak Aboriginal Corporation
NSW Government PWG representative
NSW Treasury - First Nations Expenditure & Outcome Policy & Budget Group & First Nations Economic Wellbeing Branch
NT Children's Commissioner
NT Government agencies
NT Government PWG representative
NT Government Reform Management Office
NT Justice Policy Partnership
Nunkuwarrin Yunti of SA Inc
Nyamba Buru Yawuru Limited
Nyoongar Outreach Services
PwC Indigenous Consulting
Queensland Aboriginal and Islander Health Council
Queensland Aboriginal and Torres Strait Islander Child Protection Peak
Queensland Family and Child Commission
Queensland Government PWG representative
Queensland Indigenous Family Violence Legal Service
Sisters Inside Inc
South Australian Government PWG representative
South East Tasmanian Aboriginal Corporation
South West Aboriginal Land and Sea Council
Sydney Region Aboriginal Corporation
Tasmanian Aboriginal Centre
Tasmanian Aboriginal Legal Service
Tasmanian Government Department of Premier and Cabinet

Organisation/Body name
Tasmanian Government PWG representative
Tauondi Aboriginal College
Telethon Kids Institute
Torres Shire Council
Torres Strait Regional Authority
Victorian Aboriginal Heritage Council
Victorian Aboriginal Community Controlled Health Organisation
Victorian Government PWG representative
Wellington Aboriginal Corporation Health Service
West Kimberley Futures Empowered Communities
Western Australian Government PWG representative
Winnunga Nimmityjah Aboriginal Health and Community Services
Wunan Foundation
Wunan Health
Wungening Aboriginal Corporation
Yamatji Marlpa Aboriginal Corporation
Yarrabah Aboriginal Shire Council
Yorganop Association
Yorgum Healing Services
Yothu Yindi Foundation

# Carer Leave

## Terms of reference

I, the Hon Josh Frydenberg MP, Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an Inquiry to examine:

- The potential impact of amending the National Employment Standards (NES) in Part 2-2 of the *Fair Work Act 2009* (Cth) to provide for a minimum statutory entitlement to extended unpaid carer's leave for national system employees providing informal care to older people who are frail and living at home.
- The social and economic costs and benefits from any change to the NES, including the impact on residential aged care services, and broader net impact on the economy.

## Background

The Royal Commission into Aged Care Quality and Safety (the Royal Commission) was established on 8 October 2018 and the *Final Report: Care, Dignity and Respect* was released on 1 March 2021.

The Australian aged care system provides subsidised care and support to older people. It is a large and complex system that includes a range of programs and policies. The aged care sector is facing an ageing population with increasing frailty, while Australians are living longer than ever before.

### Informal carers

Informal carers are a critical element of the aged care system for older people. They reduce the need for formal care, supplement the care provided by aged care services, and maintain critical social and community connections.

The Royal Commission reports that there is no minimum statutory entitlement for an employee to take extended unpaid leave for the purpose of caring for an older family member or close friend. An entitlement of this nature could relieve some of the burden on formal carers, noting employers may provide more generous employment entitlements, such as leave to provide care for an elderly family member or friend.

The aged care sector is experiencing increased demands for formal aged care services as the Australian population ages. Access to a minimum entitlement to unpaid carer's leave could help reduce future demand for these types of services.

## Scope of the Inquiry

The Commission will undertake an Inquiry to examine the economic and social impacts of providing a statutory leave entitlement to extended unpaid carers that provide informal care to older people who are frail and living at home, while offering employment protection on return to work.

In undertaking this Inquiry, the Commission should:

- explore the adequacy of current leave arrangements in providing informal support for older Australians
- consider the impact on the labour market and employers from potential changes to employment standards

- consider the economic and social costs and benefits from any change to the NES, including those that will impact older Australians, residential aged care services, and broader regulatory, economic and social impacts
- consider alternative ways to support informal carers to support older Australians
- consider the application of paid leave or long-term unpaid carer's leave for other types of care, such as caring for people with disability or having temporary or terminal illness.

The Commission should consider the recommendations made by the Royal Commission into Aged Care Quality and Safety *Final Report: Care, Dignity and Respect*, and arrangements used to support informal carers in other countries.

The Commission should support analysis with modelling using quantitative and qualitative data.

## Process

The Commission should undertake broad consultation with employers, unions, carers, aged care consumers and aged care service providers. In addition, the Commission should conduct public hearings and invite public submissions.

The Commission will commence this Inquiry by April 2022 and provide a final report to the Australian Government within 12 months of the receipt of these terms of reference.

**The Hon Josh Frydenberg MP**  
**Treasurer**

[Received 23 February 2022]

## More from this inquiry

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# Carer leave

## Issues paper

The Commission has released this issues paper to assist individuals and organisations to prepare submissions. It contains and outlines:

- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information
- how to make a submission.

The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

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## The Productivity Commission

**The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.**

**The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.**

**Further information on the Productivity Commission can be obtained from the Commission's website ([www.pc.gov.au](http://www.pc.gov.au)).**

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## Issues paper

The Commission has released this issues paper to assist individuals and organisations to prepare submissions to the study. It contains and outlines:

- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information
- how to make a submission (see attachment B).

Participants should not feel that they are restricted to comment only on matters raised in the issues paper. The Commission wishes to receive information and comment on issues which participants consider relevant to the inquiry's terms of reference.

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## Key inquiry dates

Receipt of terms of reference	23 February 2022
Due date for submissions	26 August 2022
Release of draft report	January 2023
Final report to Government	July 2023

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## About this inquiry

Family members and close friends who provide informal (unpaid) care and support for older people are a critical part of Australia's aged care system. They reduce the need for formal (paid) care and help to maintain critical social and community connections.

The Royal Commission into Aged Care Quality and Safety (Royal Commission) found that the current aged care system fails to adequately support informal carers (box 1). It reported that many informal carers experience adverse health, wellbeing and financial outcomes and struggle to balance the needs to care for the elderly with their work and other personal commitments. In response, the Royal Commission made recommendations to improve support for informal carers, including:

Recommendation 43: ...the Australian Government should examine the potential impact of amending the National Employment Standards under Part 2-2 of the Fair Work Act 2009 (Cth) to provide for an additional entitlement to unpaid carer's leave.

### Box 1 – Royal Commission — recommendations for informal carers

The Royal Commission into Aged Care Quality and Safety made 148 recommendations to reform the sector which included: a new Aged Care Act that prioritises the needs and preferences of older Australians; new governance arrangements to consistently deliver safe and high-quality care; streamlined national program settings; and a new funding model.

The Royal Commission recognised informal carers as integral to the provision of high-quality care and wellbeing of older people. In making *Recommendation 43* it posited that the need for informal carers was likely to increase and that more flexible work arrangements could relieve some of the adverse impacts experienced by carers.

In addition, the Royal Commission argued that informal carers require better access to information, training, and assessment and support services to maintain their wellbeing and capacity to care for older people. Accordingly, *Recommendation 42* seeks to improve existing supports by streamlining access to information and referrals and establishing a network of community-based Carers Hubs.

Better access to flexible, high-quality respite care was emphasised as a key priority. The Royal Commission proposed that the new Aged Care Act specifically define aged care to include supports, such as respite for informal carers. It also made several recommendations to increase funding and improve access to respite care. To help facilitate this, it argued that the needs of informal carers should be comprehensively considered as part of a single aged care assessment process (*Recommendation 28*).

Source: Royal Commission into Aged Care Quality and Safety (2021).

The Productivity Commission has been asked to examine the economic and social costs and benefits of providing an extended unpaid leave entitlement to informal carers of older Australians under the National Employment Standards (NES).

In the first instance, such an entitlement could contribute to:

- increasing the amount of care provided
- increasing the quality of care
- improving support to carers by granting a right to return to work after extended leave caring.

The Terms of Reference also direct us to consider:

- alternative ways to support informal carers to support older Australians
- the application of paid leave or long-term unpaid carer's leave for other types of care, such as caring for people with disability or having temporary or terminal illness.

## Focus and scope

As directed by the Terms of Reference, this inquiry will focus mainly on the effects of inserting into the NES an entitlement for extended unpaid leave for carers of older Australians.

This inquiry will examine how the entitlement would affect the behaviour of carers, older people, and employers, its overall and distributional effects on the welfare of these groups, and how it might affect government budgets. It will also assess the adequacy of the existing leave provisions in the NES for informal carers and consider how the proposed entitlement could be designed.

The proposed entitlement would benefit employees who might need to access an extended period of leave — a relatively small group of potential informal carers. That said:

- the underlying rationales and principles for assessing an entitlement to extended unpaid leave to care for older people may also apply to other types of care situations (including caring for younger people with an illness or with a disability); and
- other support measures and policies (including some that the Royal Commission identified) could benefit a wider cohort of informal carers of older Australians (carers who are not in employment).

Although these considerations are not the primary focus of the Terms of Reference, this inquiry will consider measures other than the entitlement that could be enacted alongside, or in place of it, and the possible rationales for and against extending the entitlement to other types of informal carers.

Separate to this inquiry, we are also undertaking a study relating to another recommendation from the Royal Commission. The Aged Care Employment study is examining employment models in aged care, and the effects that policies and procedures to preference direct employment of aged care workers would have on the sector (see Aged Care Employment — Commissioned study — Productivity Commission ([pc.gov.au](http://pc.gov.au))).

This Issues Paper outlines and seeks your views on:

- how we intend to assess the effects of a potential change to the entitlement for carers leave
- the design features of such a leave entitlement (for example, the length of the leave), which will bear on the effects and costs of the entitlement.

## Role of informal carers of older people

Informal carers play a critical role in complementing the formal in-home and residential care system. For this reason, and to maintain the sustainability of their contribution to the care task, it is particularly important for informal carers to have the flexibility and support to provide the care required. The main proposal for an entitlement to unpaid leave, and the complementary questions posed in the terms of reference, can contribute to these aims.

### Who are informal carers?

Broadly defined, informal carers are people who provide unpaid care and support to family members and friends (box 2). They are distinct from people who are employed or contracted to provide care (in-home or residential care workers). The ABS Survey of Disability, Ageing and Carers estimates that there were 2.6 million informal carers in Australia in 2018, including 862,000 primary carers. Nearly half of these (428,000) were primary carers of older people.

#### Box 2 – Defining informal care

The Carer Recognition Act 2010 (Cth) established a broad and encompassing definition of an informal carer. It defines informal carers to be:

...individuals who provide unpaid care and support to family members and friends who have a disability, mental illness, chronic condition, terminal illness, alcohol or other drug issue, or who are frail aged.

They cannot be employed as a carer (although they may receive income support that is conditional on provision of care) or be caring as a volunteer for an organisation. But they need not reside in the same household as the care recipient.

The ABS further classifies informal carers as 'primary' or 'other' carers:

- Primary carers are those who provide primary assistance with one or more of the 'core activities' of mobility, self-care and communication.
- Other carers are those who provide secondary assistance with one or more of the core activities, or assist only with non-core activities (for example, household chores).

Source: DSS (2016) ABS (2018).

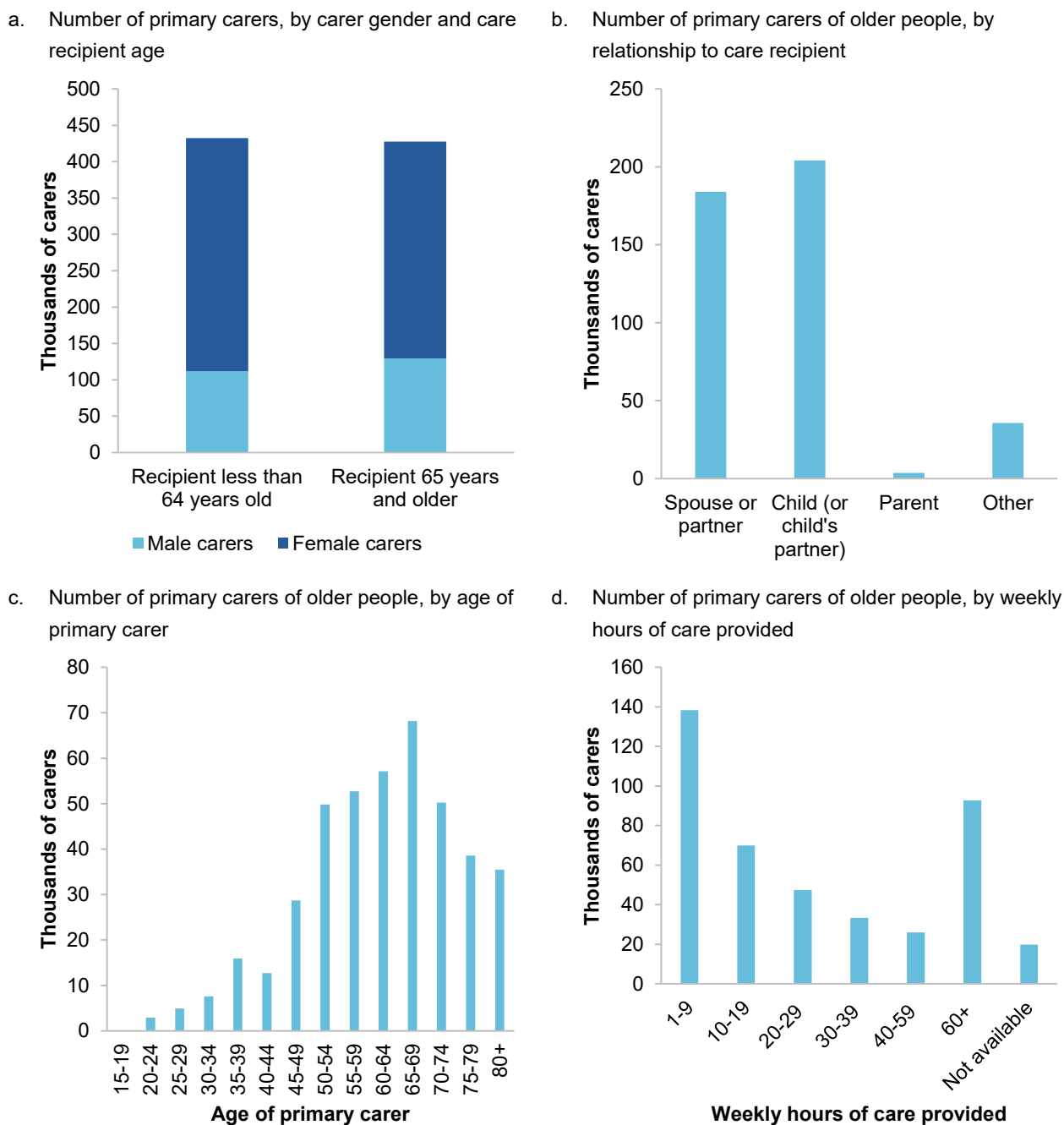
In Australia, most primary carers of older people are women (70 per cent; figure 1, panel a). About 47 per cent of primary carers of older people are their children and 43 per cent are their spouses (figure 1, panel b). More than half (55 per cent) are aged under 65 (figure 1, panel c) and 22 per cent provide more than 60 hours of care per week (figure 1, panel d). The most common reasons for taking on the role of primary carer for an older person are:

- a sense of family responsibility (71 per cent)
- emotional obligation (45 per cent)

- an ability to provide better care than anyone else (43 per cent) ABS (2018).

However, 35 per cent of carers report that 'no other friends or family were available' to provide care and 16 per cent report they 'had no other choice' but to become a carer.

Figure 1 – Characteristics of carers and care recipients  
Australia, 2018



Source: ABS (*Survey of Disability, Ageing and Carers, 2018*, TableBuilder).



### Information request

We seek information about the circumstances in which people become informal carers of older Australians.

- How often does the decision to become a carer necessitate changed work arrangements or leaving the workforce?
- How often is this a planned decision versus an impromptu decision triggered by an emergency?

## What do they do?

Informal carers assist with a range of core and non-core activities, both in place of and alongside support provided by formal carers. Core activities include mobility tasks, self-care and communication, while non-core activities include tasks such as transport, household chores and health care.

The Royal Commission found that informal carers play a significant role in helping older people to stay in their own homes for as long as possible. Living with a co-resident carer is associated with longer intervals between undergoing an aged care assessment and entering permanent residential care compared with relying on a non-resident carer (Australian Institute of Health and Welfare 2017). This suggests a degree of substitutability between formal and informal care, and that informal care can delay the need for formal care.

Evidence from abroad suggests that for lower intensity care, formal and informal care are substitutes, at least to some degree (Bolin, Lindgren and Lundborg 2008; Bonsang 2009). For higher intensity care, however, the degree of substitutability is weaker (Bonsang 2009). Some studies find that formal and informal care are complements — for example, when the formal care consists of nursing or visits to GPs or to hospital (as informal carers can assist older people to access these forms of care) (Bolin, Lindgren and Lundborg 2008).

Based on available data and literature, it is possible to give a stylised sketch of the diversity of care pathways and the role of informal carers in the aged care system (figure 2). About 950,000 (or 80 per cent) of the 1.2 million Australians aged 65 years and older receive at least some form of assistance from informal carers (ABS 2018). More older Australians receive informal care than formal in-home care or permanent residential aged care (ABS 2018, SCRGSP 2019). The pathways towards permanent residential aged care are numerous and diverse (AIHW 2017). Informal carers contribute throughout the aged care sector either by themselves as unpaid informal carers, or by complementing paid formal care.

Care pathways are complex and diverse, and so are the interactions between formal and informal care. Informal care forms part of all pathways, including pathways that include a residential care phase and those that do not. Among the older persons who will spend part of their life in residential care:

- 26 per cent follow a pathway in which they first receive episodic informal care, then more intensive informal care, before transitioning to a period of in-home informal care and formal care, and eventually moving into permanent residential aged care
- 18 per cent follow a similar pathway, that also includes periods of formal residential respite care
- 56 per cent make up a highly heterogeneous group that make multiple use of formal and informal aged care services in their transition towards permanent residential aged care.



### Information request

We seek evidence on how formal and informal care interact in the aged care sector.

- How many older Australians receive informal care and formal in-home care?
- To what extent do informal carers perform similar or different roles to formal in-home carers?
- What formal services would be difficult for some older Australians to access without informal support?
- How many older Australians rely solely on informal care? In what circumstances, or for what reasons does this occur?
- How many older Australians would need to enter residential care, if less informal care was provided?
- To what extent do informal carers support older Australians who are in residential aged care?

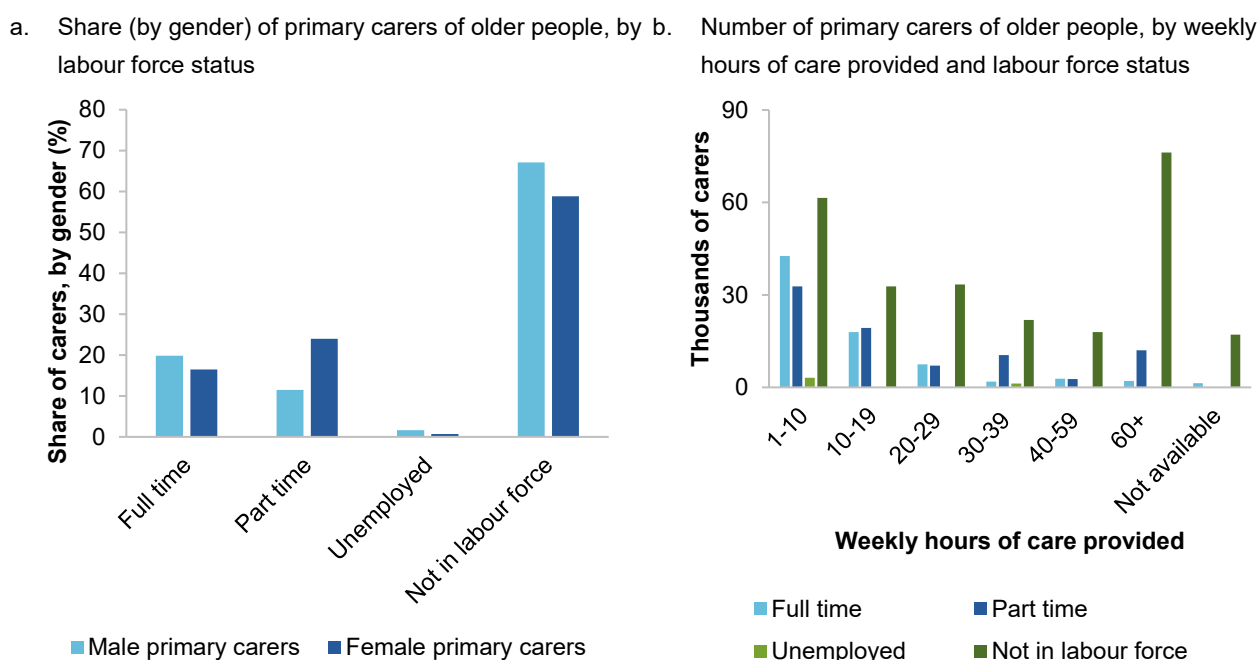
## How does caring affect informal carers?

The Royal Commission pointed to the detrimental effects of caregiving on the health, wellbeing and economic security of informal carers and the quality of care they provide. These 'costs of caring' may affect the sustainability of informal care and impose flow-on costs to the carer as well as the broader health and welfare systems. Although the evidence for causality remains to be assessed, some associations are strong.

There is a body of evidence that indicates that informal caregiving is associated with lower labour force participation. This is particularly pronounced for carers providing intensive care (more than 20 hours per week) (Colombo et al. 2011). In 2018, only 59 per cent of primary carers aged 15–65 were in the labour force (figure 2, panel a), compared with 82 per cent of non-carers of that age (ABS 2018). Informal carers were also relatively more likely to be in part time employment than non-carers. Primary carers who provided more than 60 hours of care per week were much less likely to be in the labour force than other primary carers (figure 2, panel b). Carers are also more likely to live in lower income households — 50 per cent of primary carers live in the lowest two income quintiles compared 26 per cent of non-carers. That said, it is uncertain if this is because people in low-income households are more likely to take up a caring role (that is, because caring does not change their income as much, or because paying for formal care is not affordable for them) or because carers are more likely to leave their jobs or are more likely to work fewer hours or in lower paid jobs.

Figure 2 – Most carers were unlikely to be in the labour force — especially those who provided the most care<sup>a</sup>

Australia, 2018



a. Includes only primary carers of working age (15–65 years).

Source: ABS (*Survey of Disability, Ageing and Carers, 2018*, TableBuilder).

There is also evidence that informal caregiving is associated with poorer mental health and wellbeing. Carers are 2.5 times more likely to report low wellbeing than the average Australian adult and twice as likely to report having poor health (Carers Australia 2021). The 2018 Survey of Disability, Ageing and Carers (SDAC) found that about 23 per cent of carers were worried or depressed because of the caring role, and that 6 per cent had a stress-related illness because of the caring role (ABS 2018). These findings are consistent with similar findings overseas. The OECD has found that the prevalence of mental health problems among carers is 20 per cent higher than among non-carers in OECD countries (Colombo et al. 2011).



#### Information request

We seek evidence on how informal carers of older people are affected by their caring responsibilities:

- What other evidence should the Commission consider relating to what causes informal carers to have lower labour force participation, or incomes, or poorer health and wellbeing compared to those without caring responsibilities?
- Are different groups of informal carers (for example, women, young people, older carers, etc) more or less likely to be affected? Why?



## Carer employment entitlements

The National Employment Standards (NES) are the minimum terms and conditions that employers in the national workplace relations system must provide for their employees (box 3). The existing leave entitlements for carers are primarily intended for brief periods of care to deal with an illness or unexpected event or emergency. The NES does not currently include an entitlement to extended unpaid leave for carers. However, this does not preclude a business from offering carer leave over and above the minimum standards. The NES includes three standards that assist informal carers in managing their work and caring obligations.

- 10 days of paid personal/carer leave (inclusive of sick leave) per year for full-time and pro-rata for part-time employees. Personal/carer leave accumulates during each year of employment. There is no limit to the amount of accumulated personal/carer leave that an employee can take within a year, however an employer can request evidence for the need to take leave (for example, a medical certificate or statutory declaration)
- 2 days of unpaid carer leave for each episode of care required, available to all employees, including casuals. Full-time and part-time employees can only access unpaid carer leave once they have exhausted their paid personal/carer's leave balance.
- A right to request flexible working arrangements — changes to hours, patterns and locations of work — for carers who have worked with their employer for at least 12 months. Employers may refuse requests on reasonable business grounds. There is no mechanism to appeal such refusals.

Eligibility for these entitlements varies. To be eligible for paid or unpaid leave, an employee must be providing care or support to a member of their immediate family or household because of a personal illness, injury or emergency. These criteria might limit some employees from using the existing leave provisions to care for an older person. In contrast, eligibility to request flexible working arrangements follows definitions under the Carer Recognition Act 2010 (Cth), and includes anyone providing care to a family member or friend, who may or may not reside in the same household.

The NES specify several other types of leave from which we might design a new entitlement for carers. They include:

- parental leave — new parents can access up to 18 weeks of paid parental leave and are entitled to 12 months of unpaid leave and the right to request an additional 12 months unpaid leave
- family and domestic violence leave — all employees (including part-time and casual employees) are entitled to 5 days unpaid family and domestic violence leave each year
- volunteer community service leave — all employees are entitled to unpaid leave to engage in voluntary emergency management activity and for reasonable travel and rest time. There is no set limit on the amount of community service leave an employee can take.

The NES carer entitlements appear to be widely used, however there is also evidence that informal carers struggle to balance their work and caring responsibilities. In 2018, 35 per cent of employed primary carers of older people had used paid or unpaid carer's leave in the last 6 months (ABS 2018). However, only 53 per cent said they were aware their employer provided paid carer's leave and only 37 per cent said they were aware they could access unpaid leave. The Carers Wellbeing Survey conducted in 2021 found that among respondents providing informal care to an older person, 22 per cent reported that they had no flexibility in their work hours.

### Box 3 – The National Employment Standards

The National Employment Standards are set out in Part 2-2 of the Fair Work Act 2009 (Cth). They contain 11 minimum employment entitlements that cover:

- maximum weekly hours
- flexible working arrangements
- casual to permanent conversion
- parental leave and related entitlements
- annual leave
- other leave (that is, personal / carer leave, compassionate leave and family and domestic violence leave)
- community service leave
- public holidays
- notice of termination and redundancy pay
- Information statements employers must provide.

The standards apply to all employees, including those covered by an award, enterprise agreement or employment contract as well as casual employees for certain entitlements (for example, maximum weekly hours). An employee is covered by an award, enterprise agreement or employment contract, those conditions cannot be any less than the minimum in the NES.

Source: Fair Work Commission (2022).



### Information request

We seek information to understand the extent to which employees use existing leave and flexible work provisions in the NES to care for an older person:

- When do employees use paid or unpaid leave or request flexible working arrangements to care for an older person? In what circumstances are the provisions inadequate?
- Do the eligibility requirements for the paid and unpaid leave entitlements allow them to be used by informal carers of older Australians? If not, why?
- Are there barriers that limit informal carers of older people from using the entitlements?
- Are there specific Awards that provide entitlements to informal carers that are beyond those provided in the NES?

We seek information from **employers** regarding the use and provision of leave for informal carers:

- What is the rate of uptake of the existing leave entitlements by employees who are informal carers?
- How often are leave or requests for flexible work arrangements to care for an older person denied by employers? How does this vary in different industries?
- To what extent do employers currently provide leave or other entitlements above the NES standards to employees with caring responsibilities for older people?
- Do employers have other policies to support employees who are informal carers? Are there examples of best practice?

## Effects of an entitlement to extended unpaid carer leave

The Royal Commission and the terms of reference to this inquiry suggested three rationales for creating an entitlement to extended unpaid carer leave.

- Carer wellbeing — the Royal Commission suggested that an entitlement to extended unpaid carer leave might ‘...relieve some of the impacts that informal carers experience’ (Royal Commission into Aged Care Quality and Safety 2021, p. 211).
- Care recipient wellbeing — the Royal Commission highlighted the ‘...preference of older people to remain living at home’ (Royal Commission into Aged Care Quality and Safety 2021, p. 211) and suggested that more informal care (alongside more home-based formal care) would support more people to live at home.
- Reducing the demand for formal care — the terms of reference highlighted that an entitlement to extended unpaid carer leave ‘could relieve some of the burden on formal carers’ (emphasis added).

The effects of an entitlement to extended unpaid carer leave on carer and care recipient wellbeing and the demand for formal care are each important. But an entitlement to extended unpaid carer leave would have other effects too, as both the terms of the reference and the Royal Commission acknowledge. We intend to assess as many of the material effects as practicable and determine how the design of the entitlement would influence them.

When examining any policy proposal, our statutory guidelines require us to consider the interests of the community as a whole, rather than the interests of particular groups (such as, in the case of this inquiry, carers or employers) (PC 2022). As such, we are required to assess whether an entitlement to extended unpaid carer leave would confer a net *community-wide* cost or benefit, including in terms of the distributional effects of such an entitlement.

We seek feedback on what the effects of an entitlement to extended unpaid carer leave would be, how we should assess the net community-wide cost/benefit associated with each, and how we should assess the distributional consequences.

We have separated the effects into two types.

- Effects on caring and other economic activity. These are the ways in which the entitlement would affect carers’ decisions about whether to work or provide care, and employers’ hiring decisions.<sup>1</sup>
- Redistributive effects. These are the ways in which the entitlement would redistribute resources from employers and employees to carers, and, potentially, from carers to older Australians.

### Effects on caring and other economic activity

An entitlement to extended unpaid carer leave would change the incentives that employees and employers face. For carers who have already left the workforce, such a change would have no impact; but for others, an

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<sup>1</sup> Throughout, the section refers to groups such as ‘carers’ and ‘employees’. These groups are not mutually exclusive; for example, a carer might also be an employee.

entitlement to unpaid leave could lead them to take up leave and employers would have to manage the process and the related absences.

## Some employees would cease working and provide more care

The creation of an extended unpaid carer leave entitlement could result in some employees, who would otherwise have kept working, now taking extended unpaid carer leave. We seek feedback on how we might measure the magnitude of this effect.

It might also increase the number of people who intend to return to work after an extended period of caring.



### Information request

We seek your feedback on how many employees would likely take extended unpaid carer leave and provide more informal care if they were entitled to do so.

What data (other than from ABS, Carers Australia and HILDA) could we use to estimate:

- how many employees would take extended unpaid carer leave if they were entitled to do so, and how much more care they might provide
- how many of these employees would have left their job to provide care in the absence of the entitlement
- how many of these employees would have continued working while providing some informal care?

A key question for this inquiry is whether this increase in the amount of informal care would amount to a net cost or benefit from a community-wide perspective?

For example, more informal care would increase government spending in the form of income supports and support services and decrease income and payroll tax receipts. Whether the net fiscal effect would be positive or negative is an empirical question that this inquiry will seek to answer.

Other costs and benefits might be less apparent, but not necessarily less important. We seek feedback on what these costs and benefits might be.



### Information request

We seek your views on whether there are costs and benefits of leaving formal employment to provide informal care that carers don't take into consideration. To what extent and how do carers consider the following factors when deciding whether to provide informal care:

- their ability to return to work
- their future income, including retirement income
- the health and wellbeing of the care recipient
- their own health and wellbeing
- the cost of alternative care arrangements
- any other important matters?

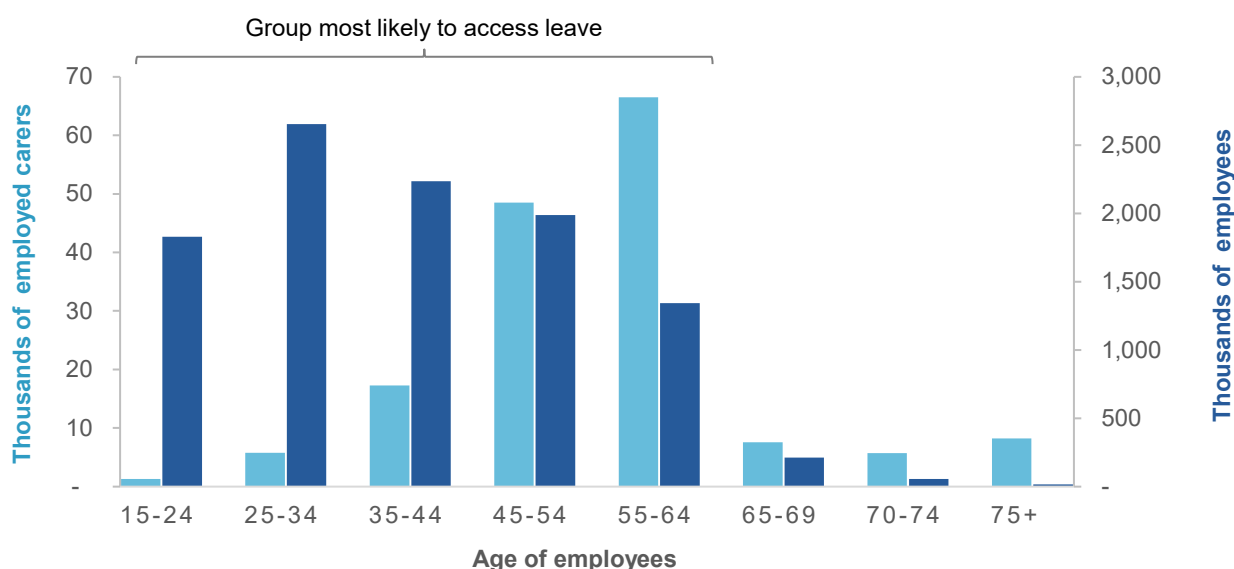
## More employees would return to work following care provision

At its core, the change to the NES envisaged by the Royal Commission is a right to return to work. Such a change would ease the burden of unpaid leave for those carers who took the leave option and thereby reduce the numbers leaving the workforce.

Many who are likely to avail themselves of the entitlement could be in the prime of their earning capacity, between 45 and 64 (figure 3).

The entitlement would not benefit other people who care for older persons, such as those who are not part of the workforce (who might be retired, see figure 1.c.) or are self-employed.

Figure 3 – An entitlement to carer leave would benefit employees  
Number of employees and employee carers, Australia, 2018



Source: ABS (*Survey of Disability, Ageing and Carers, 2018*, TableBuilder) and ABS (*Labour Force, Australia, 2018*).

To assess whether this would yield a net community-wide cost or benefit, we will again focus on the hidden costs and benefits; but this time those associated with the carers' decision to return to work following a period of caregiving, or not. The net fiscal effect of more carers returning to work is likely to be positive in this instance, as it would result in additional income and payroll tax receipts.



### Information request

We seek your feedback on how many employees who would take extended unpaid carer leave would subsequently return to work once they had ceased caring.

## Employment may fall, especially among expected users of the entitlement

An entitlement to extended unpaid carer leave would indirectly increase the cost of labour. If an employee were to take carer leave, their employer would reasonably be expected to incur additional costs in hiring and training new staff on a temporary basis to cover for the absence.

Some employers might respond by hiring fewer people based on either their understanding of the prospective employee's circumstances or the prospective employee's characteristics (for example, their age and gender). Of these employers, some might still hire as many people in total as they would otherwise (i.e. by hiring more people that they expect would *not* use the entitlement than they otherwise would), but there would likely still be fewer people employed by all businesses in total. This effect is likely to yield net community-wide costs.



### Information request

We seek your feedback on how the proposed entitlement might affect employer costs, behaviour and hiring practices and on the extent to which an entitlement to unpaid carer leave might dissuade some businesses from employing people, especially those expected to be most likely to use the entitlement.

- How large are these effects likely to be in your industry?
- Would there be differences in costs based on the size of businesses?
- How targeted are these effects likely to be, and at which types of prospective employees?
- Is there evidence from other employment entitlements (for example, unpaid parental leave) that we could draw on to infer these effects?

## Distributional effects

In addition to altering the behaviour of carers and employers, an entitlement to extended unpaid carer leave would redistribute resources in two main ways; from carers to care recipients, and from employers and employees to carers and care recipients.

- Employees who cease working to provide care would gain the right to return to work if they so desired. These employees fall into two groups — 1) those who cease working and provide more care as a result of a new leave entitlement, and 2) those who would have left their job to provide care regardless of a leave entitlement. Among the first group, the entitlement would be to the collective benefit of the employee and of the care recipient, but — in some cases — via a cost to the carer that is more than offset by a benefit to the care recipient. While some carers find personal fulfillment in providing care, many do so out of obligation (Carers Australia 2021; ABS 2018). Among the second group, the gain of the right to return to work suggests that the entitlement would be to the employee's benefit.
- The entitlement would impose costs on businesses, some of which would be passed through to employees in the form of lower pay and/or conditions in the longer run.

These effects reflect the rationales for the entitlement proposed by the Royal Commission — improving carer and care recipient wellbeing. However, it is possible that not all carers would benefit from the entitlement.

## Distributional effects within families

There is gendered dynamic to the carer-to-care-recipient redistribution. Historically, women have borne the majority of the care load and anything that encourages greater informal care without any other consideration, is likely to compound this historical burden. This would be further reinforced by and consistent with economic decisions that impose the care task on the person in a household with the lowest income, often a woman. The decision to care can have large effects on someone's income, superannuation and savings, and ultimately their total wealth. We intend to focus on how societal expectations would influence how the proposed entitlement might affect men and women differently.

## Distributional effects within society

The entitlement will lead to different distributional impacts for employers and employees and for carers and care recipients.

To consider whether this would yield net community-wide costs or benefits, it is important to recognise that the entitlement to extended unpaid carer leave would benefit more than just the people who actually use it, as many would benefit from the existence of the entitlement even if they never used it — akin to a form of insurance.

This raises the question: 'If employees value an entitlement to extended unpaid carer leave, wouldn't many employers already provide this entitlement?'

The shortcoming of this argument is that Australia's workplace relations arrangements might prevent workplaces from adopting the entitlement even if it were mutually agreed between employers and employees (box 4).

### Box 4 – Is the workplace relations system a barrier to adoption?

Australia's workplace relations arrangements might present some barriers to adoption of an entitlement to extended unpaid carer even when many employees at a given workplace that they were willing to sacrifice their pay and conditions to obtain it.

- The 'better off overall test' (BOOT) requires that an enterprise agreement make every employee better off than they would be under award conditions. Because some employees might not benefit from the proposed entitlement (for example, if their parents were both deceased), the BOOT might prevent conditions from being exchanged for the entitlement during enterprise bargaining.
- As enterprise bargaining is infrequent and complex, the entitlement might be pushed out of the scope of bargaining by more pressing issues.



### Information request

We seek your views on how we ought to assess the redistributive effects of the proposed entitlement to unpaid carers' leave and other policies that might support carers.

- How do women and men experience different pressures to provide informal care?
- How should we think about, and measure, the value of an entitlement to unpaid carer leave? Does it vary across employees?
- How has the 'better off overall' test been applied when evaluating an entitlement that might not benefit all employees?
- Have employers or employees sought to introduce an entitlement to extended unpaid carer leave into an enterprise agreement but found barriers to them doing so? If so, what were these barriers?

## Design considerations and their implications

The effects of an entitlement to extended unpaid leave will depend on its design. In making Recommendation 43, the Royal Commission did not outline a specific model or propose how the entitlement would operate within the NES. However, it did cite submissions responding to the proposal and discussed international examples (box 5).

### Box 5 – Views on the design of an unpaid leave entitlement

Carers NSW welcomed the Counsel Assisting's proposal to provide up to two years of unpaid carer leave. It further submitted that the entitlement should apply irrespective of the age of the care recipient and that the NES should not strongly distinguish between primary and secondary carers.

Professor Andrew Stewart (John Bray Professor of Law at the University of Adelaide) suggested that unpaid parental leave could be used as a model. It would:

- be available to all employees (including casuals) who have completed at least 12 months of continuous service with their employer
- provide up to 12 months of leave in the first instance, with a right to request up to a further year. Employers could only deny an extension on reasonable business grounds.

Internationally, the OECD reports that countries are increasingly introducing leave for carers. Approximately a third of OECD countries provide unpaid carer leave, most commonly between 3 and 6 months. Half of OECD countries provide paid leave specifically for carers of older people, although there is significant variation in duration, eligibility criteria and amounts of income support.

Source: Rocard and Llana-Nozal (2022); Royal Commission into Aged Care Quality and Safety (2021).



This inquiry will consider how an unpaid leave entitlement should be designed to maximise communitywide benefits. There are several design parameters.

- **Eligibility.** This includes the range of employment forms that might be covered (for example, permanent vs casual; full-time vs part-time), the length of tenure required, the nature of the employee's relationship to the care recipient (for example, an immediate family member vs a friend) and the intensity and/or type of care required by the recipient.
- **Duration.** An extended unpaid leave entitlement could range from a period of several weeks to an open-ended return to work guarantee. If time-limited, it could be a once-off entitlement, or multiple periods of leave could be allowed.
- **Flexible or pre-determined length.** The employee may need to specify the duration of the leave in advance, in order to facilitate the hiring of a replacement. However, flexibility to return sooner might be advantageous to the carer, as some caring needs may drastically reduce without much advance notice, for example if the care recipient enters residential care.
- **Type of mechanism.** An entitlement to unpaid leave could be designed as a guarantee to employees or as a right to request which could be rejected by an employer on specified grounds.
- **Employer coverage.** Employers will have different capacities to manage extended staff absences depending on the size of their business and the industry they operate in, among other things. This might provide a rationale for allowing some types of employers to be excluded from the entitlement (for example, small businesses).

How these parameters are specified will influence the effects of the entitlement. For example, requiring that the care recipient's needs must be high might target the policy at reducing the burden on formal aged care and bolster the notion that it insures employees against the costs of finding a new job after a genuine need to provide informal care arises.



#### Information request

We seek your views on how an entitlement to extended unpaid carer leave ought to be designed.

- Who should be eligible and why? What criteria should an employee need to meet and why? For example, tenure, relationship to the care recipient, and/or the nature of care required.
- Should access to the proposed entitlement be once-off or occur more often?
- How long should an entitlement to unpaid leave to care for an older person be? Why?
- What should the process be for revising the return date, if any?
- How should the entitlement be provided (for example in single block or in multiple) and why? What would likely be the consequences?
- Should all employers be required to provide the entitlement? Why or why not?
- What costs, perverse incentives or unintended consequences should the design of the entitlement aim to minimise or avoid? How might this be achieved?
- What would be required practically to insert the proposed entitlement in the NES?

# Alternative policies to support informal carers of older people

## Existing supports for informal carers

In addition to leave and flexible work arrangements, the main forms of support for carers are financial assistance, advice and information, counselling, training, and respite care (Rocard and Llana-Nozal 2022).

The Australian Government funds three main income support payments to assist carers with the financial pressures of caring (table 1).

Table 1 – Carer income supports and payments<sup>a,b</sup>

	Description	Amount <sup>a</sup>	Number of recipients <sup>b</sup>
<b>Carer Payment</b>	Paid to carers providing constant care in the home of the person being cared for. Payment is income and asset tested and requires the care recipient to require care for at least 6 months (or terminal). Carer must not be employed, in education or volunteering for more than 25 hours a week and income cut off points (depending on the carer's situation) are between \$56 053 and \$115 440 per year).	\$988 per fortnight, equivalent to the standard pension rate	298,000, including 126,000 aged 65+
<b>Carer Allowance</b>	An income supplement available to carers who provide additional daily care at home to a person with a disability, has a severe medical condition or is frail aged. The allowance is income tested (combined income below \$250 000 per year) and requires the care recipient to require care for at least 12 months. Carer Allowance can be paid in addition to the Carer Payment.	\$137 per fortnight	681,000, including 273,000 aged 65+
<b>Carer Supplement</b>	An annual top-up payment of up to \$600 paid to recipients of the Carer Payment or Carer Allowance.	\$600 per annum	<i>Not available</i>

**a.** Rates for a single person. **b.** As of December 2021. Care recipients of carers receiving payments. Rounded to nearest thousand.

Source: Services Australia (2021); DSS (2021)

The Australian Government also delivers and funds organisations to provide services to informal carers. Carer Gateway was launched in 2015 to provide carers with a single pathway to access them (DSS 2022). Through a phone and web-based service it connects carers to peer support groups, counselling, self-guided coaching, training and emergency respite care. It also assists carers to access planned respite care through the Aged Care system. Planned respite care services include: short-stays in residential aged care, centre-based day care, overnight community or host-family based care and flexible respite delivered in-home.

How informal carers are identified and legally defined affects who will seek and access support. Moreover, not all people providing care identify themselves as informal carers. Acknowledging this, the Carer Recognition Act 2010 (Cth) was introduced to increase recognition and awareness of carers and formally acknowledge the valuable contribution they make to society (DSS 2016). It does not create legally enforceable rights or duties but sets out 10 principles as to how carers should be treated and considered in policy, program and service delivery settings.



### Information request

We seek your views on the income supports and services currently offered to informal carers.

- To what extent does eligibility for the existing payments affect carers' employment decisions?
- What challenges do informal carers of older people face in accessing the supports they need?
- What are the main types of supports that informal carers rely on?

## Alternative supports for informal carers

The Terms of Reference ask us to consider 'alternative ways to support informal carers to support older Australians'. These supports could encompass a broad range of policy measures such as other types of employment entitlements, income support payments and carer support services. Alternative policies could be enacted alongside an unpaid leave entitlement or in place of it.

An entitlement to extended unpaid leave on its own may not reduce the burden experienced by carers or improve the quality of care they are able to provide to older people. For example, supports could better equip carers to provide high quality care, or maintain their own wellbeing.

The Royal Commission was critical of the provision of existing supports for informal carers and summarised the current system as "reactive, inadequate and piecemeal" (2021, p. 203). It was particularly concerned with respite care, finding that:

There has been compelling evidence that as a result of poor quality, inflexible and inappropriate respite, informal carers felt significant stress and that this could be detrimental to the health of the person receiving care. (Royal Commission into Aged Care Quality and Safety 2021, p. 207).

Respite care is considered to be one of the most important supports for informal carers (Rocard and Llana-Nozal 2022). It provides carers with a break from their regular duties without which they are at greater risk of experiencing health issues and social isolation. Despite this, 87 per cent of primary carers of older Australians had never used respite care (ABS 2018).

Training is another important measure that improves outcomes for carers and care recipients (PC 2011). Research has found that training interventions can have significant benefits for carer mental health and their ability / knowledge. Knowledge about the conditions of the person they care for, as well as practical skills (for example, safe lifting) and nursing skills (administering medication) can allow informal carers to take over between formal nursing visits (Rocard and Llana-Nozal 2022).

Alternative employment arrangements or supports could be preferable to the proposed entitlement or complement it. Expanded access to flexible work arrangements is one example. Carers might also require shorter but occasional periods of leave to respond to episodic care needs, such as emergencies that require more than one or two days of intensive caregiving, or for respite purposes.

As the inquiry is primarily focused on evaluating the effects of the proposed entitlement, our focus in this part of the inquiry will be limited to canvassing possible alternatives.



### Information request

We seek your views on alternative supports for carers of older people.

- What types of alternative support measures are most needed by informal carers? Why?
- Are there particular supports that would be needed to complement the introduction of an entitlement to extended unpaid leave?
- Are there alternative employment measures that ought to be considered in place of, or in addition to an entitlement to extended unpaid leave? What kind? Why?

## Extensions to carers other than carers of older people

The Terms of Reference direct the Commission to consider the application of paid leave or extended unpaid carer leave in other areas, such as care for people with a disability or people with temporary or terminal illness. Keeping our primary focus on the proposed entitlement to unpaid carer leave for older people, we intend to consider this extension by asking ‘In which ways would the effects of unpaid carer’s leave (or other policies) be different for carers other than carers of older people, and what consequences would this have for the desirability of a support?’

Do different types of carers have sufficiently different needs to warrant different types of supports? For example, the needs that carers of older people require might differ from the needs that other types of carers (such as carers of persons with a disability, with an episodic mental illness, or recovering from surgery, and so on) might require.



### Information request

We seek your views on how we should consider whether reforms to supports for carers of older people should apply to other carers too.

- In which ways does informal care of older people differ from the care that other people might require?
- Are there reasons to have different policies for informal carers of older people than for informal carers of other types of people?

## A. Terms of reference

I, Josh Frydenberg, Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an inquiry to examine:

- The potential impact of amending the National Employment Standards (NES) in Part 2-2 of the Fair Work Act 2009 (Cth) to provide for a minimum statutory entitlement to extended unpaid carer's leave for national system employees providing informal care to older people who are frail and living at home.
- The social and economic costs and benefits from any change to the NES, including the impact on residential aged care services, and broader net impact on the economy.

### Background

The Royal Commission into Aged Care Quality and Safety (the Royal Commission) was established on 8 October 2018 and the Final Report: Care, Dignity and Respect was released on 1 March 2021.

The Australian aged care system provides subsidised care and support to older people. It is a large and complex system that includes a range of programs and policies. The aged care sector is facing an ageing population with increasing frailty, while Australians are living longer than ever before.

### Informal carers

Informal carers are a critical element of the aged care system for older people. They reduce the need for formal care, supplement the care provided by aged care services, and maintain critical social and community connections.

The Royal Commission reports that there is no minimum statutory entitlement for an employee to take extended unpaid leave for the purpose of caring for an older family member or close friend. An entitlement of this nature could relieve some of the burden on formal carers, noting employers may provide more generous employment entitlements, such as leave to provide care for an elderly family member or friend.

The aged care sector is experiencing increased demands for formal aged care services as the Australian population ages. Access to a minimum entitlement to unpaid carer's leave could help reduce future demand for these types of services.

### Scope of the inquiry

The Commission will undertake an Inquiry to examine the economic and social impacts of providing a statutory leave entitlement to extended unpaid carers that provide informal care to older people who are frail and living at home, while offering employment protection on return to work.

In undertaking this Inquiry, the Commission should:

- explore the adequacy of current leave arrangements in providing informal support for older Australians
- consider the impact on the labour market and employers from potential changes to employment standards
- consider the economic and social costs and benefits from any change to the NES, including those that will impact older Australians, residential aged care services, and broader regulatory, economic and social impacts
- consider alternative ways to support informal carers to support older Australians

- consider the application of paid leave or long-term unpaid carer's leave for other types of care, such as caring for people with disability or having temporary or terminal illness.

The Commission should consider the recommendations made by the Royal Commission into Aged Care Quality and Safety Final Report: Care, Dignity and Respect, and arrangements used to support informal carers in other countries.

The Commission should support analysis with modelling using quantitative and qualitative data.

## Process

The Commission should undertake broad consultation with employers, unions, carers, aged care consumers and aged care service providers. In addition, the Commission should conduct public hearings and invite public submissions.

The Commission will commence this Inquiry by April 2022 and provide a final report to the Australian Government within 12 months of the receipt of these terms of reference.

**The Hon Josh Frydenberg MP**

Treasurer

[Received 23 February 2022]

## B. How to make a submission

### How to prepare a submission

Written submissions may range from a short comment outlining your views on a particular topic to a much more substantial document covering a range of issues. Where possible, you should provide evidence, such as relevant data and documentation, to support your views.

### Publishing submissions

- Each submission, except for any attachment supplied in confidence, will be published on the Commission's website shortly after receipt, and will remain there indefinitely as a public document.
- The Commission reserves the right to not publish material on its website that is offensive, potentially defamatory, or clearly out of scope for the inquiry or study in question.

### Copyright

- Copyright in submissions sent to the Commission resides with the author(s), not with the Commission.
- Do not send us material for which you are not the copyright owner – such as pictures, photos and newspaper articles – you should just reference or link to this material in your submission.

### In confidence material

- This is a public review and all submissions should be provided as public documents that can be placed on the Commission's website for others to read and comment on. However, information which is of a confidential nature or which is submitted in confidence can be treated as such by the Commission, provided the cause for such treatment is shown.
- The Commission may also request a non-confidential summary of the confidential material it is given, or the reasons why a summary cannot be provided.
- Material supplied in confidence should be clearly marked 'IN CONFIDENCE' and be in a separate attachment to non-confidential material.
- You are encouraged to contact the Commission for further information and advice before submitting such material.

### Privacy

- For privacy reasons, all **personal** details (for example home and email address, signatures and phone numbers) will be removed before they are published on the website.
- You may wish to remain anonymous or use a pseudonym. Please note that, if you choose to remain anonymous or use a pseudonym, the Commission may place less weight on your submission.

### Technical tips

- The Commission prefers to receive submissions as a Microsoft Word (.docx) files. PDF files are acceptable if produced from a Word document or similar text based software. You may wish to search the Internet on how to make your documents more accessible or for the more technical, follow advice from Web Content Accessibility Guidelines (WCAG) 2.0: <https://www.w3.org/TR/WCAG20/>

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- Do not send password protected files.
  - Track changes, editing marks, hidden text and internal links should be removed from submissions.
  - To minimise linking problems, type the full web address (for example, <http://www.referredwebsite.com/folder/filename.html>).

## How to lodge a submission

Submissions should be lodged using the online form on the Commission's website. Submissions lodged by post should be accompanied by a submission cover sheet, available from the Commission's website.

Online*	<a href="http://www.pc.gov.au/inquiries/current/carers-leave">www.pc.gov.au/inquiries/current/carers-leave</a>
Post*	Carer Leave Productivity Commission Locked Bag 2, Collins St East Melbourne Vic 8003
Phone	Please contact the Administrative Officer on 03 9653 2253

\* If you do not receive notification of receipt of your submission to the Commission, please contact the Administrative Officer.

## Due date for submissions

Please send submissions to the Commission by **24 August 2022**.



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# Early Childhood Education and Care

## Terms of reference

I, Jim Chalmers, Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an inquiry into the early childhood education and care (ECEC) sector in Australia.

## Background

The Australian Government recognises that ECEC is an essential part of Australia's education system and is integral to Australia's economic prosperity as a powerful lever for increasing workforce participation. The Government is committed to identifying solutions that will chart the course for universal, affordable ECEC – in the great tradition of universal Medicare and universal superannuation.

Participation in quality ECEC has important developmental, social, and educational benefits for Australian children. It can assist with positive early childhood development and provides a foundation for our children's future well-being and success.

Cost and availability continue to be barriers to accessing ECEC, and for parents and carers achieving their preferred level of workforce participation. The Government believes more accessible ECEC is one of the most powerful initiatives it can pursue for increasing workforce participation, particularly for women.

Governments make significant investments in ECEC which must be targeted, complementary and cohesive to maximise the educational and economic benefit in the most efficient way possible.

Findings from the Australian Competition and Consumer Commission Child Care Price Inquiry will inform and support this Inquiry.

In addition, the Government has committed to developing a Commonwealth whole-of-government Early Years Strategy, focused on the wellbeing, education and development of Australia's children. Further, National Cabinet has asked Education and Early Years Ministers to develop a long-term vision for ECEC.

## Scope of the inquiry

The Commission will undertake an inquiry into the ECEC sector in Australia. The Commission should make recommendations that will support affordable, accessible, equitable and high-quality ECEC that reduces barriers to workforce participation and supports children's learning and development, including considering a universal 90 per cent child care subsidy rate.

In doing so, the Commission should consider options that improve or support:

- affordability of, and access to, quality ECEC services that meet the needs of families and children
- developmental and educational outcomes for Australian children, including preparation for school
- economic growth, including through enabling workforce participation, particularly for women, and contributing to productivity
- outcomes for children and families experiencing vulnerability and/or disadvantage, First Nations children and families, and children and families experiencing disability
- the efficiency and effectiveness of government investment in the sector.

Without limiting the matters on which the Commission may report, in making recommendations the Commission should consider:

- impacts on demand, supply, and fee growth.
- interactions with existing and planned Commonwealth, state and territory ECEC policy settings and funding, including recent commitments by the New South Wales and Victorian governments to expand access to 30 hours of preschool for children in the year before full time school and support more 3-year-old children to participate in preschool, and any commitments in response to the South Australian Royal Commission into Early Childhood Education and Care.
- interactions with other incentives and disincentives to join or increase participation in the workforce.
- ECEC sector workforce requirements and the capacity to meet these requirements within current Commonwealth, state and territory initiatives.
- required regulatory settings, including to manage compliance and integrity risks for Commonwealth programs.
- impact on access to quality ECEC, including by remoteness and access to flexible (non-standard hours) services.
- whether different settings are required based on the location of services or family circumstances.
- the operation and adequacy of the market, including types of care and the roles of for-profit and not-for-profit providers, and the appropriate role for government.
- activity requirements and other ECEC policy settings, including to reduce system complexity and debt for families.
- impacts on the economy, including workforce participation, productivity and budgetary implications.
- a pathway for implementation.

The Commission should have regard to any findings from the Australian Competition and Consumer Commission's Price Inquiry into child care prices, as well as any other relevant government reviews of ECEC programs.

## Process

The Commission should undertake a broad public consultation process, including by holding hearings, inviting public submissions and releasing a draft report to the public.

The Commission should consult with state and territory governments and the ECEC sector where required. The Commission should also consult with the Closing the Gap Early Childhood Care and Development Policy Partnership on matters relating to First Nations children, families, and services.

The Commission will commence this Inquiry on 1 March 2023 and provide a final report to the Government by 30 June 2024.

**The Hon Jim Chalmers MP**  
**Treasurer**

[Received 9 February 2023]

# Philanthropy

## Terms of reference

### Review of Philanthropy

I, Jim Chalmers, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an inquiry into philanthropy.

### Background

Philanthropic giving underpins the crucial efforts of charities, not-for-profit organisations and community groups to support vulnerable Australians and build social capital and connectedness in Australian communities.

This has been highlighted by the challenges of recent years, with not-for-profits mobilising monetary donations, supplies, and volunteers to support those affected by the COVID-19 pandemic, natural disasters, and the rising cost of living. As we confront these and other challenges, not-for-profits will continue to play a vital role in strengthening and reconnecting our communities.

The Government is committed to taking this opportunity and will collaborate with the philanthropic, not-for-profit and business sectors to double philanthropic giving by 2030. Identifying and assessing opportunities and obstacles to increasing philanthropic giving will provide a roadmap to achieving this objective.

### Scope of the inquiry/research study

The purpose of the inquiry is to understand trends in philanthropic giving in Australia, the underlying drivers of these trends, and to identify opportunities and obstacles to increasing such giving. The inquiry should make recommendations to Government to address barriers to giving and harness opportunities to grow it further.

In undertaking the inquiry/study, the Commission should:

1. Consider the tendencies and motivations for Australians' charitable giving, including through different donation channels such as workplace giving, bequests, private foundations, in-kind donations, and volunteering.
2. Identify opportunities to increase philanthropic giving and the extent of their potential impact, including:
  - i. The role of, and effectiveness of, foundations in encouraging philanthropic giving and supporting the charitable sector.
  - ii. Successful public strategies in other jurisdictions — across business, not-for-profits and philanthropic sectors — that have enhanced the status of giving or the level of philanthropic activity.
  - iii. The potential to increase philanthropy by enhancing the effectiveness and efficiency of the use of donations.
3. Examine current barriers to philanthropic giving, including:
  - i. The burden imposed on donors, volunteers and not-for-profits by the current regulatory framework for giving and how this affects their philanthropic decisions.
  - ii. The ability of donors to assess and compare charities based on evidence of effectiveness, including through impact evaluations and making comparisons across

- charities. In doing so, the Commission should consider the work of overseas impact evaluation comparison sites.
- 4. Consider the appropriateness of current sources of data related to philanthropic giving, and how databases could be enhanced in a cost-effective manner.
  - 5. Examine the tax expenditure framework that applies to charities. In particular, assess the effectiveness and fairness of the deductible gift recipient framework and how it aligns with public policy objectives and the priorities of the broader community.
  - 6. Identify reforms to address barriers or harness opportunities to increase philanthropy, and assess benefits, costs, risks, practicalities and implementation considerations. In doing so, the Commission should advise on priority areas for reform, having regard to:
    - i. The integrity of the taxation system and the current fiscal environment.
    - ii. The benefits that flow to not-for-profits from existing programs.
    - iii. The benefits that would flow from increased philanthropic giving.

Process

The Commission is to undertake an appropriate public consultation process including holding public hearings, inviting public submissions and releasing a draft report to the public.

The Commission should consult broadly, including with Commonwealth, state and territory governments, and the philanthropic, not-for-profit and business sectors.

In undertaking the inquiry, the Commission should have regard to previous inquiries where relevant, including the *Contribution of the Not-for-Profit Sector* inquiry concluded in 2010, and other reviews in train, including the Not-for-profit Sector Development Blueprint being delivered by the Community Services Advisory Group.

The final report should be provided within 15 months of the receipt of these terms of reference.

**Jim Chalmers**  
**Treasurer**

[Received 11 February 2023]

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# Current investigations

## Australia Post

On 24 February 2022, the AGCNCO received a formal complaint from the Conference of Asia Pacific Express Carriers (Australia) Limited against Australia Post. The complaint alleged that Australia Post is not complying with the Australian Government's competitive neutrality policy, particularly with regard to regulatory neutrality, debt neutrality and cost attribution. The full complaint is available to download:

[Australia Post - Competitive Neutrality Complaint \(PDF - 2081 Kb\)](#)

The AGCNCO has accepted the complaint and has opened an investigation into Australia Post's compliance with its competitive neutrality obligations. That investigation will also examine whether Australia Post is facing any significant cost disadvantages arising from government ownership that could offset any competitive advantages of government ownership it might enjoy.

Interested parties with information relevant to the Australia Post complaint investigation are invited to contact the AGCNCO to discuss that information.

Contact Stewart Plain by phone on 02 6240 3219 or email [cnooffice@pc.gov.au](mailto:cnooffice@pc.gov.au) for any queries regarding this investigation.

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# Supporting submission to competitive neutrality complaint Made by CAPEC

24 February 2022

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## 1 Executive Summary

### 1.1 Introduction

This complaint is brought by the Conference of Asia Pacific Express Carriers (Australia) Limited (**CAPEC**), an industry association representing the interests of DHL, FedEx and UPS (together, **CAPEC Members**). Each CAPEC Member provides integrated express delivery services for documents, parcels and other items both domestically and internationally.

CAPEC Members face significant competition in the delivery of parcels, in particular of e-commerce parcels and goods bought via online shopping platforms from both the Australian Postal Corporation (**Australia Post**) and StarTrack Express Pty Limited (**StarTrack**).

### 1.2 Summary of complaint

CAPEC Members embrace efficient competition in markets for the delivery of e-commerce parcel and goods bought online. However, differences in existing regulations and other forms of government support mean that CAPEC Members do not compete on a level playing field with Australia Post for the importation and delivery of parcels in Australia. Consistent with prior recommendations of the (as it was then) Commonwealth Competitive Neutrality Complaints Office (**CCNCO**) in relation to Australia Post, the regulatory advantages that Australia Post enjoys are inconsistent with the principles of competitive neutrality.<sup>1</sup>

The following regulatory conditions mean that Australia Post gains an unfair competitive advantage over CAPEC Members in parcel delivery:

- (a) Asymmetries in reporting and compliance obligations between CAPEC Members and Australia Post, including for;
  - (i) the importation of goods into Australia;
    - (A) such as Australia Post's use of the Postal Letter Stream to limit import reporting obligations. The Postal Letter Stream relates to Australia Post's treatment of small parcels or packets weighing less than 2 kgs and a combined length, width and depth under 900mm as mail items, thereby avoiding the regulatory or compliance requirements that would otherwise apply (set out in further detail at 4(iii)); and
    - (B) there are differing import declarations that apply to Australia Post and CAPEC Members and the mode by which import declarations are made.

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<sup>1</sup> Commonwealth Competitive Neutrality Complaints Office 2000, Customs Treatment of Australia Post, Investigation No. 5, AusInfo, Canberra: <https://www.pc.gov.au/competitive-neutrality/investigations/customs-australia-post>

## CAPEC competitive neutrality complaint

- (ii) the inspection of imported goods into Australia by customs officials and related inspection processes;

together, the **Importation Complaint**.

- (b) Australia Post leveraging regulatory exemptions and publicly funded infrastructure networks to deliver and distribute parcels, including:
  - (i) support from the Australian Government, such as;
    - (A) COVID-19 relief under the *Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020*;
    - (B) access to borrowings at concessional interest rates;
  - (ii) apparent exemption from compliance with the applicable industry award in NSW; and
  - (iii) preferential use of public roads and a publicly funded delivery network that is not otherwise available to CAPEC Members

together, the **Regulatory and Government Support Complaint**.

CAPEC Members recognise that Australia Post is differentially regulated as a Government Business Enterprise (**GBE**) holding the exclusive right to supply the carriage of letters in Australia.<sup>2</sup> However, Australia Post should not leverage its unique regulatory framework to gain advantages for its purely commercial operations in competitive markets for the delivery of parcels. As set out in the Commonwealth Government's "Intergovernmental Agreement on Competition and Productivity-Enhancing Reforms":

*Government business activities that compete with private providers, whether for-profit or not-for-profit, should comply with competitive neutrality principles to ensure they do not enjoy a net competitive advantage simply as a result of government ownership.*<sup>3</sup>

CAPEC Members have limited visibility of the extent to which Australia Post's operations are regulated and monitored in respect of its commercial parcel delivery operations. This complaint is the only means by which CAPEC Members can seek comfort that the regulatory framework for Australia Post's services is appropriate and that Australia Post is compliant with its competitive neutrality obligations.

CAPEC believes that Australia Post enjoys the cumulative effect of long-standing competitive advantages and a lack of regulatory burdens that are contrary to the competitive neutrality principle as contained in the Commonwealth's *Competitive*

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<sup>2</sup> *Australian Postal Corporation Act 1989* (Cth) ss 29 and 30.

<sup>3</sup> Intergovernmental Agreement on Competition and Productivity-Enhancing Reforms, 9 December 2016: <https://www.treasury.nsw.gov.au/sites/default/files/2017-03/IGA-productivity-reforms.pdf>

## CAPEC competitive neutrality complaint

*Neutrality Policy Statement.*<sup>4</sup> CAPEC therefore requests that the AGCNCO conduct an investigation into Australia Post to ensure that these principles are strictly followed.

In addition to the Importation Complaint and Regulatory and Government Support Complaint, CAPEC is also concerned about the manner in which Australia Post may be complying with its export reporting obligations. All goods exported from Australia must be reported to the Australian Border Force (**ABF**) where certain conditions are met.<sup>5</sup> CAPEC members are required to comply with similar cargo reporting requirements, which include the submission of an Export Declaration for consignments valued at over \$2,000 or requiring an Export Permit.

However, Australia Post is exempt from requiring an Export Declaration for mail.<sup>6</sup> Given the ambiguity that applies to the definition of mail (discussed elsewhere in this submission), whereby small parcels or packets weighing less than 2 kgs and a combined length, width and depth under 900mm may be considered “mail” items, there is a significant likelihood that Australia Post enjoys a material advantage by having less reporting data to process and a lower regulatory burden.

We have not set out any further detail relating to this export declaration complaint in this submission. We understand that the asymmetry which exists between CAPEC Members and Australia Post regarding the import and inspection of goods in Australia equally applies to the export of goods. For the reasons set out above in relation to the Importation Complaint and Regulatory and Government Support Complaint, we encourage the AGCNCO to further consider the appropriateness of Australia Post’s exemption from application of relevant export regulations in those circumstances where it is exporting small packages and competing directly with CAPEC Members in a commercial setting.

### 1.3 Australia Post competes with CAPEC Members in the parcel delivery industry

CAPEC Members and Australia Post compete closely and to an ever-increasing degree in relation to the supply of services for the importing and delivery of parcels. This competitive tension has been acknowledged by key industry participants. In July 2020, former Australia Post Group CEO and Managing Director, Ms Christine Holgate, told the Environment and Communications Legislation Committee’s inquiry into the future of Australia Post’s service delivery that “*the parcels business is a highly competitive market*”.<sup>7</sup> A 2021 IBIS World report on Courier Pick-up and Delivery Services notes that “*Australia Post is anticipated to remain a key external threat to the industry*”.<sup>8</sup>

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<sup>4</sup> Commonwealth Competitive Neutrality Policy Statement, June 1996: <https://treasury.gov.au/sites/default/files/2019-03/cnps.pdf>

<sup>5</sup> Australian Border Force, ‘Export requirements’: <https://www.abf.gov.au/importing-exporting-and-manufacturing/exporting/how-to-export/export-requirements>

<sup>6</sup> Australian Border Force, ‘Export requirements’: <https://www.abf.gov.au/importing-exporting-and-manufacturing/exporting/how-to-export/export-requirements>

<sup>7</sup> Environment and Communications Legislation Committee, Committee Hansard, 8 July 2020, pg 15; Senate Standing Committees on Environment and Communications, ‘The future of Australia Post’s service delivery’, August 2020: [https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024512/toc\\_pdf/ThefutureofAustraliaPost%e2%80%99service%20delivery.pdf;fileType=application%2Fpdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024512/toc_pdf/ThefutureofAustraliaPost%e2%80%99service%20delivery.pdf;fileType=application%2Fpdf)

<sup>8</sup> IBISWorld Report, *Courier Pick-up and Delivery Services in Australia*, June 2021, pg 7.

## CAPEC competitive neutrality complaint

The market segment for the import of parcels under 2 kg is of significant commercial importance to CAPEC Members. In 2021, a combined total of approximately 19 million import parcels under 2 kg were shipped by CAPEC Members (including letters). This figure shows the substantial extent of competition between CAPEC members and Australia Post in this market segment given the sizeable volume of shipments and demonstrates that this supply involves a substantial business stream to CAPEC Members' operations. As such, it is essential to CAPEC Members that there is an even playing field to compete with Australia Post in relation to the importation of parcels under 2 kg.

### 1.4 Purpose of submission to the AGCNCO

This submission articulates CAPEC Members' concerns about the competitive advantages Australia Post enjoys in the importation and delivery of parcels as a result of its government ownership. As an industry body representing Australia Post's primary competitors, CAPEC has limited access to information to assess the extent to which Australia Post has advantages arising from its government ownership. To the extent possible and using all available information, this submission details the reasons why CAPEC believes Australia Post's activities are not in line with the principles of competitive neutrality in a way which warrants investigation by the AGCNCO.

To assist the AGCNCO in its assessment of Australia Post's compliance with these principles and further to this submission, **Annexure 1** contains a summary report of Australia Post's competitive neutrality compliance for the period 2011 to 2018.<sup>9</sup> Given the limited information available publicly, we request that the AGCNCO further review Australia Post's operations and activities in this respect.

### 1.5 CAPEC encourages fair competition with Australia Post

CAPEC embraces an open market in which its Members compete with Australia Post. However, that competition must take place on a level playing field and be driven by strategic investment, innovation, high quality service and competitive pricing. CAPEC is concerned that competition in this market for parcel delivery is being distorted due to the advantages afforded to Australia Post by its position as the GBE monopoly supplier for the carriage of letters and parcels under the Postal Letter Stream. Such distortion is contrary to competitive neutrality principles and warrants investigation and recommendations from the Productivity Commission.

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## 2 Competition between CAPEC Members and Australia Post

### 2.1 Commercial parcel delivery

The commercial parcel delivery industry concerns the pick-up, transport and delivery of parcels between businesses and consumers across multiple levels (including, for

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<sup>9</sup> Council on Federal Financial Relations, Performance Reporting:  
[https://federalfinancialrelations.gov.au/content/performance\\_reporting.aspx](https://federalfinancialrelations.gov.au/content/performance_reporting.aspx)

## CAPEC competitive neutrality complaint

example, business to business, or consumer to consumer parcel delivery). Each of FedEx, UPS, DHL and Australia Post are competitors within this industry. CAPEC Members have a long history of participation in the parcel delivery industry in Australia, with DHL entering in 1972, FedEx in 1989 and UPS in 1990.

### 2.2 Australia Post's transition from letter to parcel delivery

Over the past 10-15 years there has been a significant change in postal markets as volumes of letters have fallen while volumes of parcels have significantly grown, in line with growth in e-commerce.<sup>10</sup> In 2020, revenue in the domestic and international letters business was down year on year 9.9%, with domestic letter volumes also decreasing year on year by 14.5%.<sup>11</sup> However, Australia Post notes that due to the COVID-19 pandemic, it had also "*cemented our [Australia Post's] role as the nation's most-chosen provider of business to consumer delivery services*" with domestic parcel revenue growing by 17.8% year on year.<sup>12</sup> As of June 2021, parcel delivery services accounted for 50.9% of Australia Post's revenue, whilst reserved mail services stood at 26.2%.<sup>13</sup>

This shift to the delivery of parcels has had a material effect on Australia Post's business given the drop in profitability from the delivery of letters.

Australia Post has acknowledged that there is a "longer-term trend" of decline in letter volumes but that a significant growth in e-commerce has resulted in "unprecedented increases in parcel volumes".<sup>14</sup> This trend continues to accelerate, with Australia Post indicating that it experienced an 80% growth in e-commerce during the first eight weeks of the COVID-19 pandemic.<sup>15</sup>

The table below extracted from the Senate Standing Committees on Environment and Communications into "The future of Australia Post's service delivery"<sup>16</sup> further highlights the rapid decline in Australia Post's letter services and increase in parcel deliveries during the pandemic. Although not included below, Australia Post notes in its 2020 Annual Report that international parcel revenue also increased 6.2% year on year.<sup>17</sup>

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<sup>10</sup> IBISWorld Report, *Postal Services in Australia*, June 2021, pg 16-17.

<sup>11</sup> Australia Post 2020 Annual Report, pg 4.

<sup>12</sup> Australia Post 2020 Annual Report, pg 4.

<sup>13</sup> IBISWorld Report, *Postal Services in Australia*, June 2021, pg 21.

<sup>14</sup> Australia Post 2020 Annual Report, pg 54.

<sup>15</sup> Australia Post 2020 Annual Report, pg 1.

<sup>16</sup> Environment and Communications Legislation Committee, Committee Hansard, 8 July 2020, pg 12; Senate Standing Committees on Environment and Communications, 'The future of Australia Post's service delivery', August 2020, pg 12.

<sup>17</sup> Australia Post 2020 Annual Report, pg 6.

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Product	Monthly Year on Year % change in Product volumes		
	March	April	May
Domestic Letters <sup>1</sup>	-11%	-28%	-36% <sup>2</sup>
International Letters	-32%	-52%	-53%
Domestic Parcels	18%	64%	49%

Source: Australia Post

<sup>1</sup> Represents Addressed and Unaddressed letter volumes

<sup>2</sup> When adjusted for the 2019 Federal Election, Domestic Letter volume decline year on year for May is 28%.

Australia Post made a significant movement into parcel delivery with the formation of the StarTrack joint venture with QANTAS in 2003. StarTrack is a transport and logistics company specialising in parcel delivery. Australia Post acquired QANTAS' share of StarTrack in 2012.

Australia Post has continued to mobilise resources away from letters to its parcel delivery services in order to address increased demand. Australia Post has invested heavily in infrastructure to make inroads into the growing parcel delivery market,<sup>18</sup> including opening its new Brisbane Parcel Facility, the largest mail facility in the Southern Hemisphere.<sup>19</sup> In its 2020 Annual Report, the former Australia Post Group CEO and Managing Director stated that:<sup>20</sup>

*The onset of COVID-19, which while accelerating the growth in our parcels business, spurred the deceleration in our letters business ...*

*Our domestic parcel business once again cemented Australia Post's position as market leader ... this business once again contributed to **more than half** of our Group revenues. (emphasis added)*

### 2.3 Australia Post's activities in parcel delivery directly compete with CAPEC Members

As Australia Post has moved into parcel delivery, it has competed directly with commercial parcel operators including CAPEC Members.

There is a longstanding recognition that Australia Post's competitive activity has the potential to raise competitive neutrality concerns. In 2000, CAPEC lodged a competitive neutrality complaint with the CCNCO in relation to Australia Post's activities in the carriage of parcels and documents into and out of Australia.<sup>21</sup> In response to that complaint, the CCNCO found (among other things) that differences in import and export thresholds between Australia Post and commercial carriers resulted in significant cost disadvantages for commercial carriers. The CCNCO concluded that "*the case for*

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<sup>18</sup> IBISWorld Report, *Postal Services in Australia*, June 2021, pg 9.

<sup>19</sup> IBISWorld Report, *Australian Postal Corporation*, 30 June 2020, pg 3.

<sup>20</sup> Australia Post 2020 Annual Report, pg 6.

<sup>21</sup> Commonwealth Competitive Neutrality Complaints Office 2000, *Customs Treatment of Australia Post*, Investigation No. 5, AusInfo, Canberra: <https://www.pc.gov.au/competitive-neutrality/investigations/customs-australia-post>

## CAPEC competitive neutrality complaint

*aligning the thresholds for postal and non-postal items is compelling*” and made a formal recommendation that they be aligned.<sup>22</sup>

Australia Post has publicly referred to the competitive advantages it has in the parcel delivery market. It has publicly stated that:<sup>23</sup>

- its combination of Australia Post and StarTrack creates “*a competitive advantage no one can match*”;
- it has an “*unrivalled network*”;
- it has the best air freight network in the country; and
- it uses its “*unrivalled network to deliver customer solutions*”, specifically that Australia Post and StarTrack have collectively “*one of the most robust and flexible logistics and delivery networks in Australia. This provides us with extensive opportunities to leverage our network*”.

Australia Post’s position as the government-owned monopoly supplier of the carriage of letters and the infrastructure and resources that Australia Post has built over decades in providing this service also means that it has the ability to engage in conduct that no commercial parcel delivery operator can, which has the potential to distort competition in that market. For example, the 2021 IBISWorld report on courier pick-up and delivery services in Australia stated that:<sup>24</sup>

*Australia Post dominates the Postal Services industry, which allows it to significantly invest in letter and parcel delivery operations ...*

*Competition from Australia Post is anticipated to intensify over the next five years. Since the markets for courier services and postal services overlap significantly, any changes to the regulation of Australia Post, specifically international postage prices or Australia Post's domestic monopoly services, would also affect [couriers].*

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## 3 Relevant parties

### 3.1 CAPEC

CAPEC was established in 2000 as a non-profit organisation representing the interests of the world’s leading air express delivery service companies and was incorporated in 2002. Through its Executive Committee, CAPEC works with government and regulatory authorities in Australia and New Zealand to further the interests of its members and the broader express carrier service industry.

CAPEC’s members are DHL, FedEx and UPS.

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<sup>22</sup> CAPEC Members understand that the government agreed with this recommendation and aligned the relevant thresholds.

<sup>23</sup> Australia Post Annual Report 2016, pp 26-27.

<sup>24</sup> IBISWorld Report, *Courier Pick-up and Delivery Services in Australia*, June 2021, pg 15.



## CAPEC competitive neutrality complaint

### *DHL*

DHL Express (Australia) Pty Ltd (**DHL**) is the Australian arm of the international courier, parcel and express mail services company operating in around 220 countries and territories.<sup>25</sup> DHL's services operate across four primary business units: DHL Express, DHL eCommerce, DHL Global Forwarding and DHL Supply Chain. DHL eCommerce provides standard domestic and international parcel pick-up, delivery and return solutions for business customers as well as e-commerce logistics and facilitation services. DHL Express provides express parcel and package services, along with shipping and tracking services.

### *FedEx*

FedEx Express Australia Pty Ltd (**FedEx**) is the Australian subsidiary of the international express shipping and transport company, Federal Express Corporation (**FedEx Express**), operating in around 220 countries and territories. It provides customers with a range of transportation, e-commerce and business services.<sup>26</sup>

Further, the global TNT Express business was acquired by FedEx Corporation in May 2016 and now operates under the FedEx Express' business unit.

### *UPS*

UPS Pty Ltd (**UPS**) operates in more than 220 countries and territories<sup>27</sup> and provides delivery, specialised transportation, logistics, capital and e-commerce solutions.

Each CAPEC member provides international courier pick-up and delivery services, which involves the collection of packages from vendors' premises outside of Australia and the delivery of the packages directly to the premises of Australian customers.

## 3.2 Australia Post

The Australian Postal Corporation (**Australia Post**) has been Australia's postal services provider since the first *Postal Act* of 1825. Australia Post is the Commonwealth-owned provider of postal services in Australia, established and regulated under the *Australian Postal Corporations Act 1989* (Cth) (**APC Act**).

The APC Act requires Australia Post to supply a letter delivery service, the principal purpose of which is to (by physical means) carry letters within Australia. Australia Post has the exclusive right to carry letters originating from Australia to other countries and to deliver letters originating outside of Australia to recipients within Australia.<sup>28</sup> This is referred to as a "reserved service".<sup>29</sup>

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<sup>25</sup> DHL is a division of German post and logistics company Deutsche Post DHL.

<sup>26</sup> FedEx, *About FedEx*: <http://www.fedex.com/in/about/>

<sup>27</sup> UPS, *UPS Facts – Worldwide*: <https://www.ups.com/content/au/en/about/facts/worldwide.html>; UPS, *UPS Australia Factsheet*: [https://about.ups.com/content/dam/upsstories/assets/fact-sheets/Australia\\_Facts.pdf](https://about.ups.com/content/dam/upsstories/assets/fact-sheets/Australia_Facts.pdf)

<sup>28</sup> *Australian Postal Corporation Act 1989* (Cth) ss 25 to 28.

<sup>29</sup> *Australian Postal Corporation Act 1989* (Cth), s 29.

## CAPEC competitive neutrality complaint

The APC Act provides for a number of exceptions to exclusivity afforded to Australia Post in relation to reserved services,<sup>30</sup> including:

- letters weighing more than 250g (unless the letter consists of, for example, a parcel containing two or more separate letters);
- the carriage of letters relating to goods that are sent and delivered with the goods; and
- the carriage of a letter within Australia for a charge at least four times the then rate of postage for a standard postal article by ordinary post.

Australia Post is also Australia's "designated operator" in the Universal Postal Union (UPU). The UPU is an international body that, among other things, sets the size for standard items of post, the standards for addressing postal items as well as the customs declarations carried on international postal items.<sup>31</sup> Australia has been a member of the UPU since 1907.

### *StarTrack*

StarTrack is a national transport and logistics company that services both business and consumer markets with parcel, freight, express, courier and supply chain solutions.<sup>32</sup> In 2003, Australia Post and QANTAS formed a 50/50 joint venture to purchase and operate the then StarTrack business. In 2012, Australia Post acquired QANTAS' 50% share in the business and subsequently changed the StarTrack logo to include the Australia Post logo. Together, Australia Post and StarTrack have combined the premium service standards of StarTrack with the network and convenience offered by Australia Post.<sup>33</sup>

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## 4 Importation Complaint

### 4.1 The parcel delivery process

In order to appropriately contextualise this submission and the Importation Complaint, it is important to understand how the importation and delivery process for parcels works in Australia and, in particular, the reporting obligations that express courier companies, such as the CAPEC Members, are subject to.

#### (i) Customer purchases

The parcel importation process is initiated by customers purchasing a product from an overseas vendor or looking to deliver a parcel from overseas into Australia. Customers can sometimes choose which delivery option they prefer, such as express courier (e.g. CAPEC Members) or postal delivery (which may include general or express delivery options).

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<sup>30</sup> *Australian Postal Corporation Act 1989* (Cth), s 30.

<sup>31</sup> IbisWorld Report, *Postal Services in Australia* pg 26.

<sup>32</sup> IbisWorld Report, *Postal Services in Australia*, pg 35.

<sup>33</sup> IbisWorld Report, *Postal Services in Australia*, pg 35.

## CAPEC competitive neutrality complaint

Alternatively, vendors can also decide how their particular products will be imported into Australia.

(ii) Local distribution of parcel

Once the delivery mechanism has been determined, parcels leave the premises of an overseas vendor for transport to Australia. This can occur by way of:

- the pick-up of the parcel from the vendor/sender's premises, which is undertaken by CAPEC Members and also by StarTrack Express International; or
- the parcel is posted at a local post office where it is then delivered to the nearest depot for import into Australia.

Unlike Australia Post, CAPEC Members are required to deliver each package to a specific residential or commercial address. This issue is detailed further at 5(b).

(iii) Parcel delivery and the Postal Letter Stream

Australia Post's Postal Letter Stream is a designated network providing specific infrastructure and other services for the import and distribution of letters (hereafter, **Postal Letter Stream**). Relevantly, the rules set out under the Universal Postal Convention (Decisions of the 2016 Istanbul Congress)<sup>34</sup> and Convention Manual<sup>35</sup> (together, **the rules**), requires that Australia Post ensure letter post items (including small letters, large letters, bulky letters or small packets);

- weighing 2 kg or less;<sup>36</sup> and
- measuring a maximum dimension of 600mm in length or having a combined length, width and depth of 900mm.<sup>37</sup>

are accepted, handled, conveyed and delivered. For Australia Post, any small packet must be accompanied by either a CN 22 or CN 23 import declaration form.

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<sup>34</sup> International Bureau of the Universal Postal Union, *Decisions of the 2016 Istanbul Congress; Universal Postal Convention*, Berne, 2017:

<https://www.upu.int/UPU/media/upu/files/UPU/aboutUpu/acts/actsOfPreviousCongress/acts2016DecisionsIstanbulEn.pdf>

<sup>35</sup> International Bureau of the Universal Postal Union, *Convention Manual*, Berne, 2017:

<https://www.upu.int/UPU/media/upu/files/UPU/aboutUpu/acts/manualsInThreeVolumes/actInThreeVolumesManualOfConventionEn.pdf>

<sup>36</sup> International Bureau of the Universal Postal Union, *Decisions of the 2016 Istanbul Congress; Universal Postal Convention*, Berne, 2017, Section IV, Article 17, Clause 3.1 (pg 150):

<https://www.upu.int/UPU/media/upu/files/UPU/aboutUpu/acts/actsOfPreviousCongress/acts2016DecisionsIstanbulEn.pdf>

<sup>37</sup> International Bureau of the Universal Postal Union, *Convention Manual*, Berne, 2017, Article 17-104, Clause 1.1 (pg 139):

<https://www.upu.int/UPU/media/upu/files/UPU/aboutUpu/acts/manualsInThreeVolumes/actInThreeVolumesManualOfConventionEn.pdf>

## CAPEC competitive neutrality complaint

For the purposes of the Importation Complaint, all references to parcels includes small packets.

### 4.2 Australia Post's use of the Postal Letter Stream to negate import reporting obligations

#### (a) Import Declarations using the Postal Letter Stream

All cargo arriving into Australia (by ship or aircraft) from a place outside of Australia must be dealt with in accordance with the requirements in the *Customs Act 1901* (Cth) (**Customs Act**) and the *Customs Regulations 2015* (**Customs Regulations**). These require that for imported cargo to be cleared, specified information must be submitted to the ABF by responsible parties in the form of reports and declarations relating to the cargo. The combination of cargo reports and import declarations enables the ABF to determine the relevant duty, taxes and other charges that may be payable and assists in identifying whether the goods are subject to other controls.<sup>38</sup> All cargo, including mail, on board an aircraft or ship arriving in Australia from overseas, comes under customs control and remains subject to that control from the time of discharge from the ship or aircraft up to the time of customs release.

To successfully deliver parcels, import declarations must be completed that set out the relevant details of those items which are being brought into Australia. These import declarations differ based on the value of the goods being imported and the size and weight of the goods.

Notably, the UPU requires that designated operators, such as Australia Post, use CN 22 and CN 23<sup>39</sup> as a customs declaration for small packets (with CN 22 forms used for goods valued below 300 Special Drawing Rights (**SDR**) (equating to \$585 as of 7 January 2022),<sup>40</sup> and CN 23 forms used for goods valued over 300 SDR).<sup>41</sup> The rules make it clear that Australia Post must process small packets as described at section 4(i). Importantly, this suggests that for all items under 2 kg and meeting the required dimensions, Australia Post may be able to process and clear such items in the same way it would do so for letters.

CAPEC submits this has the practical operation of allowing Australia Post to process and clear such items as part of the import component of the Postal Letter Stream, whilst identical items imported by CAPEC Members would be subject to more onerous processing and clearing requirements. As shown, there is a clear divide in how data is reported and processed between Australia Post and CAPEC Members.

#### (b) Import Declarations under 300 SDR

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<sup>38</sup> For example, goods prohibited under the *Customs (Prohibited Import) Regulations 1958*.

<sup>39</sup> The Convention Manual identifies CN 22 and CN 23 forms as Letter-post forms. See <https://www.upu.int/UPU/media/upu/files/aboutUpu/acts/manualsInThreeVolumes/actInThreeVolumesManualOfConventionEn.pdf> (pg XXXIX). See also Instructions to CN 22 Form at Annexure 2.

<sup>40</sup> XE used to convert SDR to AUD: <https://www.xe.com/currencyconverter/convert/?Amount=300&From=XDR&To=AUD>

<sup>41</sup> Universal Postal Union, *Convention Manual*, Berne, 2017, Article 20-001, Clause 2.8 (pg 82): <https://www.upu.int/UPU/media/upu/files/aboutUpu/acts/manualsInThreeVolumes/actInThreeVolumesManualOfConventionEn.pdf>

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### (i) CN 22 Declaration

A CN 22 declaration to the ABF is for the exclusive use of Australia Post and is used for all parcels or small packets<sup>42</sup> under 300 SDR. This allows Australia Post to essentially process parcels weighing less than 2 kg and having a combined length, width and depth of 900mm using the CN 22 form.

A CN 22 form requires only the following information to be supplied to the ABF by Australia Post:

- a box is to be ticked described as either gift, document, merchandise, plant, animal or food products, commercial sample or other;
- description of the contents;
- the weight of the item;
- the value of the item;
- the date and signature of the sender; and
- for commercial items, the HS tariff number and country of origin.

An example of a CN 22 is attached as **Annexure 2**.

### (ii) SAC declarations

For commercial operators other than Australia Post, such as CAPEC Members, imported goods that arrive in Australia by air or sea cargo must be declared to the ABF by way of a SAC declaration. There are various SAC declarations which apply depending on the context in which goods are being imported. These have been set out below:<sup>43</sup>

- Cargo Report SAC Declaration: which applies for goods that are valued below \$1,000, are not identified under the SAC Thesaurus<sup>44</sup> and are not being referred to the Department of Agriculture, Water and the Environment.
- Short format SAC Declaration: which applies to goods that are valued below \$1,000 and can be made by anyone who has a digital certificate and is registered in the Integrated Cargo System (**ICS**) (which includes CAPEC Members).
- Long format SAC declaration: import processing charges are not applied to long format SAC Declarations and can only be submitted by

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<sup>42</sup> Universal Postal Union, *Convention Manual*, Berne, 2017, Article 20-001, Clause 2.8 (pg 82): <https://www.upu.int/UPU/media/upu/files/aboutUpu/acts/manualsInThreeVolumes/actInThreeVolumesManualOfConventionEn.pdf>

<sup>43</sup> Australian Border Force, 'How To Import': <https://www.abf.gov.au/importing-exporting-and-manufacturing/importing/how-to-import/import-declaration#cargo>

<sup>44</sup> Australian Border Force, Self-Assessed Clearance, Declaration Thesaurus (Version 1, 25 July 2005): <https://www.abf.gov.au/imports/files/fact-sheets/self-assessed-clearance-declaration-thesaurus.pdf>

## CAPEC competitive neutrality complaint

the importer or a customs broker. The long format SAC Declarations are also required where a permit is required for the import of certain goods.

SACs are not required to be completed for goods with a value below \$1,000 that arrive by international mail (post)<sup>45</sup> (and as mentioned, Australia Post is able to utilise CN 22 and CN 23 forms depending on the value of the goods). Therefore, Australia Post is not required to complete a SAC Declaration for goods that are imported via post.

The majority of SAC Declarations are lodged with the ABF when a cargo reporter completes a cargo report for air cargo. Cargo reports must be made electronically to the ABF and within specified timeframes. This is done through the ICS, a system that integrates with the ABF software which calculates all liabilities and charges based on the information supplied by the relevant import documentation and cargo reporting.<sup>46</sup> When a report is entered into the ICS from a registered user, the system applies checks and balances to ensure that all mandatory information has been entered.

There is limited transparency over the information Australia Post is required to provide in its cargo reports. Specifically, it is unclear to CAPEC whether Australia Post completes their reporting requirements relating to their N10 Import Declarations and the extent to which compliance with these requirements is enforced. To ensure that both CAPEC and Australia Post are subject to comparable compliance burdens, the AGCNCO should assess Australia Post's compliance with these reporting obligations.

Under the current system, a cargo reporter (such as a CAPEC Member) provides the following information to the ABF when making a Short Form SAC Declaration via an air cargo report:

- the GST registration number of the business (either an ARN or ABN);
- the flight number of the aircraft the goods have come in on;
- the arrival date;
- country of origin (including port of loading);
- full (including first and last name) consignor and consignee details (i.e. name and street address- not PO Box);
- goods description (which requires more detail than either the CN 22 or CN 23);

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<sup>45</sup> Australian Border Force, 'How To Import': <https://www.abf.gov.au/imports/Pages/How-to-import/Import-declarations.aspx>

<sup>46</sup> Further information about the ICS can be found here: [https://www.abf.gov.au/help-and-support/ics/integrated-cargo-system-\(ics\)](https://www.abf.gov.au/help-and-support/ics/integrated-cargo-system-(ics))

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- declared value of goods;
- number of packages;
- the gross weight of the goods; and
- additional information as further set out in **Annexure 4**.

When a Short Form SAC Declaration is made in this way, the original supplier / owner of the goods does not have to do anything in the way of completing an import declaration. An example of a SAC Declaration is attached as **Annexure 4**.

### (c) Import Declarations over 300 SDR

#### (i) CN 23 Declaration

A CN 23 Declaration to the ABF is for the exclusive use of Australia Post and is used for all parcels or small packets over 300 SDR. CAPEC understands that Australia Post also uses this process to deliver small packets over 300 SDR through the Postal Letter Stream where the requisite dimensions are met.

A CN 23 Declaration requires the same information as a CN 22 as well as the following additional information:

- the details of the sender;
- the details of the receiver;
- any applicable details for licences, certificates or invoices; and
- comments (e.g. goods are subject to quarantine, sanitary phytosanitary inspection or other restrictions)

An example of a CN 23 is attached as **Annexure 3**.

#### (ii) N10 Import Declarations over \$1,000

For goods that are valued over \$1,000 there is a separate reporting regime that applies to the person who is responsible for importing the good. Where imported goods exceed the value of \$1,000, an N10 Import Declaration must be submitted to the ABF including information about:

- the goods being imported;
- details on the importer;
- how the goods are being transported; and
- the tariff classification and customs value.

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There are two N10 Import Declarations which are required to be completed:

- one for the import of goods arriving by air or sea (used by CAPEC Members); and
- another for those goods arriving by international mail (used by Australia Post).

The N10 Non-Post Import Declaration<sup>47</sup> (see **Annexure 8**) is used broadly, whilst the N10 Post Import Declaration<sup>48</sup> (see **Annexure 9**) for goods arriving via mail is for the exclusive use of Australia Post. These N10 forms are completed by the person responsible for importing the good, which is then processed by the ABF. Noticeably, the data requirements for the N10 Non-Post Import Declaration is significantly more than the N10 Post Import Declaration. For example, a number of the items on the N10 Post form such as country of origin, supplier identity reference only need to be provided “if known”, whereas equivalent fields on the N10 Non-Post Import Declaration are mandatory.

This means that for the relevant items valued over \$1,000 that are being imported, the ABF is able to process those items being distributed by Australia Post much faster than those items being distributed by CAPEC. This discrepancy in the two reporting regimes affects CAPEC Members’ ability to compete with Australia Post in the quality and timeliness of the service it provides.

As has been demonstrated above, regardless of the value of the item being imported, where the size of the parcel or small packet meets the required dimensions, it appears that these items imported by Australia Post are treated differently to those imported by CAPEC Members.

### (d) N10 Import Declaration Import Processing Charge

Currently, CAPEC Members incur Import Processing Charges (**IPC**) relating to the N10 Non-Post Import Declaration. The IPC combines fees charged by the ABF<sup>49</sup> and Department of Agriculture, Water and the Environment<sup>50</sup> based on the declared value of the import consignment. Consignments valued between \$1,000 - \$10,000 incur a combined charge of \$88, whilst consignments valued at equal to or over \$10,000 incur a charge of \$190 for electronic lodgements (documentary lodgements incur a marginally higher charge).

As the IPCs are attributed to N10 Non-Post Import Declarations, it is not clear whether they equally apply to N10 Post Import Declaration. Should IPCs not be applied to N10 Post Import Declarations, this may have the effect of excluding Australia Post from regulatory costs that CAPEC Members are subject to and the incentive for Australia Post

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<sup>47</sup> Import Declaration (N10): <https://www.abf.gov.au/form-listing/forms/b650.pdf>

<sup>48</sup> Import Declaration (N10) – Post: <https://www.abf.gov.au/form-listing/forms/b374.pdf>

<sup>49</sup> Department of Immigration and Border Protection Notice No. 2015/44: <https://www.abf.gov.au/help-and-support-subsite/CustomsNotices/2015-44.pdf>

<sup>50</sup> Australia Government, Department of Agriculture, Water and The Environment, Departmental Charging Guidelines – Biosecurity and Export Regulatory Functions, June 2021: <https://www.awe.gov.au/sites/default/files/documents/departamental-charging-guidelines-2021.pdf> (pg 19-20).



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to import goods as international mail items (where the definition of mail items is sufficiently ambiguous).

### (e) Air Cargo Reports

CAPEC Members understand that Australia Post must report on the particulars of any goods that arrive/are unloaded in Australia by ship or aircraft and for which Australia Post has arranged carriage.<sup>51</sup> However, for those goods which are imported via air, CAPEC Members do not know if Australia Post fulfils its reporting requirements by way of an Air Cargo Report (**ACR**) (**Annexure 5**) or if it is required to submit Air Cargo Report SACs (**ACR SACs**) (**Annexure 6**) which are more onerous. Because CAPEC Members are required to submit ACR SACs for goods unloaded/delivered, Australia Post would have a significant regulatory advantage if it fulfils its reporting obligations through ACRs alone.

### (f) Implications of disparities in reporting requirements

The customs clearance process applying to Australia Post differs markedly from that applying to CAPEC Members. As mentioned, Australia Post is able to send small packets meeting certain dimensions under the Postal Letter stream. It is also CAPEC's understanding that, while StarTrack is subject to the customs reporting requirements above (including SAC declarations for low-value threshold goods) as StarTrack is also a 'cargo reporter' under the *Customs Act*, Australia Post is using the Postal Letter Stream to clear small parcels through customs to avoid detailed reporting requirements. While some data is collected in relation to the goods transported using a CN 22 or CN 23 Declaration, it is far less detailed than the line by line data that CAPEC Members and other express couriers are required to provide to the ABF. In comparison, the SAC declaration which express courier companies are required to complete requires significantly more detailed reporting.

What this means in practice is that parcels transported through the Postal Letter Stream for the import of parcels compared with similar or identical parcels imported by Australia Post avoid the additional data reporting required and move straight to the less rigorous physical screening process. This results in an unfair administrative burden on the express delivery companies which Australia Post is not subject to despite being the largest player in the market.

Further, if the SAC Declaration is incomplete, or if the ABF system flags a parcel as being 'of concern' (for example, because of the sender location), a parcel will be held by Customs until such time as complete data is provided. This process holds up the ability for the parcel to be on-delivered to the customer in a timely fashion. Accordingly, the detail that CAPEC Members are required to provide burdens members on two levels:

- the initial compilation and transmission of the data; and
- the potential for further questions to be raised by customs, by virtue of them having access to that data.

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<sup>51</sup> *Customs Act 1901* (Cth), s 64AB.

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Where evidence of non-compliance with the legislation is identified, potential penalties and/or prosecution under s 64AB of the *Customs Act* may apply to the entity undertaking the cargo reporting. If a CAPEC Member provides incorrect or misleading information (for example because the vendor has not supplied it with the necessary data), it may be subject to an infringement notice, requiring the payment of an \$9,990 penalty for each airway bill and misleading notice. Australia Post is not subject to these same potential penalties in circumstances where it does not provide the same level of data to customs as is required of CAPEC Members.

### 4.3 Inspection of imported goods

On arrival in Australia, the item is physically screened (i.e. X-Ray, sniffer detection dogs and/or inspection by ABF Customs officials) and reconciled with the customs declaration provided (i.e. CN 22, CN 23 or SAC Declaration). For the purposes of undertaking goods inspections, CAPEC Members maintain ABF owned X-Ray machines to facilitate any targeted X-Ray screening of inbound cargo undertaken by the ABF. Over time, CAPEC Members have reduced the number of shipments processed through X-Ray machines as the ABF have adopted an intelligence-based risk assessment approach to goods inspection, rather than through X-Ray screening. CAPEC Members currently understand that approximately 10-15% of shipments are subject to X-Ray screening. There is therefore the potential at this second stage of the clearance process for a further hold up of the package.

CAPEC is seeking to understand the extent to which similar goods inspection processes apply to Australia Post and if not, whether Australia Post derives a competitive advantage from any discrepancies to these obligations.

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## 5 Regulatory and Government Support Complaint

### 5.1 Support from the Australian Government

- (a) COVID-19 relief under the *Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020*

In the wake of COVID-19, the *Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020*<sup>52</sup> was introduced as a temporary measure to relax the community service obligations imposed on Australia Post, such as the frequency, accuracy and speed of mail delivery, street posting boxes and retail outlets.

The explanatory note to the amending regulation sets out that the purpose of the amendment is to provide “*urgent and temporary relaxation of performance standards for the delivery of letters and retail operations to enable Australia Post to effectively manage any COVID-19 impacts on its operations, while also redeploying staff from its letters*”

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<sup>52</sup> *Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020* (Cth): <https://www.legislation.gov.au/Details/F2020L00579>

## CAPEC competitive neutrality complaint

*network to the parcels network in response to the growth in parcels and declines in letter volumes driven by COVID-19”.*<sup>53</sup>

Although the relief measures related to Australia Post’s letter delivery operations, they may have nevertheless supported Australia Post’s parcel delivery functions. The Finance Minister at the time stated that “*under the adjustments, Australia Post will be able to redeploy its workforce to critical areas experiencing a surge in volume, such as parcels and essential services.*”<sup>54</sup>

CAPEC understands that it is necessary for Australia Post to be provided with Government support to meet its community service obligations during the COVID-19 pandemic. However, for such support to be extended to the Australia Post’s commercial operations exacerbates an unfair advantage in already difficult economic conditions.

The amending regulation ended on 31 June 2021.

### (b) Access to borrowings at concessional interest rates

CAPEC believes that Australia Post may be receiving preferential treatment from the Australian Government in relation to its borrowing costs. This assertion is based on Australia Post’s A+ credit rating,<sup>55</sup> which is higher than that of each CAPEC Member, being BBB, A2 and BBB+ for each of FedEx,<sup>56</sup> UPS<sup>57</sup> and DHL<sup>58</sup> respectively (applying ratings from differing ratings agencies). Australia Post’s higher credit rating means that it may be able to access a cheaper source of funding as compared to its peers as a result of its government ownership. Australia Post has confirmed that it does not currently offset its debt neutrality advantage through any debt neutrality charges for the period 2015-16 to 2017-18, as identified in Annexure 1.

Although Australia Post’s borrowing costs have been cited as \$3.3 million,<sup>59</sup> there is limited transparency as to how Australia Post has determined these costs. Notably, in Australia Post’s 2020 Annual Report, it states that:

*The financial assets and liabilities not measured at fair value in the consolidated balance sheet... are categorised as Level 2 with the fair value of each financial asset and liability determined by discounting the expected future cash flows using the applicable yield curve for assets and liabilities with similar risk and maturity profiles.*

Australia Post earlier described Level 2 as:

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<sup>53</sup> Explanatory Statement, Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020: <https://www.legislation.gov.au/Details/F2020L00579/Explanatory%20Statement/Text>

<sup>54</sup> Media Release by the Hon. Paul Fletcher, Minister for Communications Urban Infrastructure, Cities and the Arts, ‘Supporting Australia Post throughout COVID-19’: <https://minister.infrastructure.gov.au/fletcher/media-release/supporting-australia-post-throughout-covid-19>

<sup>55</sup> Australia Post 2020 Annual Report, pg 123.

<sup>56</sup> FedEx, Shareowner Services: <https://investors.fedex.com/shareowner-services/investor-faqs/default.aspx#:~:text=in%20Earnings%20Releases,-What%20are%20FedEx%20Corporation's%20debt%20ratings%3F,Poors%20and%20Baa2%20by%20Moody's>

<sup>57</sup> Moody’s Investors Service: [https://www.moody's.com/research/Moodys-affirms-ratings-of-UPS-senior-unsecured-at-A2-and--PR\\_444968](https://www.moody's.com/research/Moodys-affirms-ratings-of-UPS-senior-unsecured-at-A2-and--PR_444968)

<sup>58</sup> DHL, Creditor Relations: <https://www.dpdhl.com/en/investors/creditor-relations.html>

<sup>59</sup> Australia Post 2020 Annual Report, pg 114.

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*Valuation techniques for which the lowest level input that is significant to the fair value measurement is directly or indirectly observable.*<sup>60</sup>

Although a particular valuation technique for measuring fair value is included in the Annual Report, it does not give sufficient information for CAPEC Members to determine how actual borrow costs applying to Australia Post have been determined.

As a GBE, Australia Post naturally has sufficient and implied guarantees from the Australian Government that it is able to meet its liabilities that cannot be matched by CAPEC Members. Australia Post should not be able to leverage this position to achieve favourable borrowing costs that do not reflect its commercial realities. As set out in cl 3.(4)(b)(ii) of the *Competition Policy Agreements*,<sup>61</sup> where such favourable terms are achieved, the Australian Government should impose debt guarantee fees directed towards offsetting any competitive advantage. CAPEC Members understand through Australia Post's own competitive neutrality reporting that it has not offset its debt neutrality advantages for the period 2015-16 to 2017-18. As Australia Post's competitive neutrality reporting data has not been made publicly available from 2019-20 onwards, it is unclear if any such charges have since been made.

The lack of reported data and transparency in relation to Australia Post's debt neutrality compliance also means that CAPEC Members are not able to assess the extent to which Australia Post maintains an advantage. CAPEC Members urge the AGCNCO to review whether Australia Post is meeting its debt neutrality obligations.

### **5.2 Australia Post's apparent exemption from the Transport Industry – General Carriers Contract Determination 2017 (Determination)**

#### **(a) Background**

Private carriers for the provision of the transportation of goods are engaged throughout the parcel delivery industry by both Australia Post (including StarTrack) and CAPEC Members. The services of these private carriers are defined as a 'contract for carriage' under section 309(1) of the *Industrial Relations Act 1996* (NSW).

Under section 309(1), where the contract carrier is a body corporate, the term "contract of carriage" is defined to mean a contract for the transportation of goods by motor vehicle or bicycle, but only if no other person is employed by the carrier unless the other person is either:

- (i) a director of the body corporate or a member of the family of a director of the body corporate;
- (ii) a person who, together with the members of his or her family, has a controlling interest in the body corporate; or

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<sup>60</sup> Australia Post 2020 Annual Report, pg 129.

<sup>61</sup> Competition Policy Agreements, cl 3.(4)(b)(ii): <https://www.pc.gov.au/inquiries/completed/access/files/ncpagreement.pdf>

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- (iii) a member of a family of a person who, together with the members of his or her family, has controlling interest in the body corporate.

### (b) Contract Determinations

Under Chapter 6 of the *Industrial Relations Act 1996* (NSW), the New South Wales Industrial Relations Commission can make Contract Determinations, (which are akin to awards) which provide for minimum terms and conditions (including minimum rates) that must be paid to contract carriers.

The General Carriers Contract Determination 2017<sup>62</sup> covers most contract carriers in NSW and provides minimum rates of engagement that must be paid to those contract carriers.

### (c) Australia Post exemption

Under section 309(4)(c) *Industrial Relations Act 1996* (NSW), there is an express exclusion for the carriage of mail by or on behalf of Australia Post. However, the term 'mail' is not defined in the *Industrial Relations Act 1996* (NSW).

Section 3 of the APC Act also does not define 'mail' but uses the term "article". Relevantly, the term "article" includes an envelope, packet, parcel, container or wrapper containing any matter or thing (including a letter, message, information or direction to pay an amount of money).

### (d) Exemption applicable only to Australia Post

The view taken by Australia Post appears to be that given the term "mail" is not defined in the *Industrial Relations Act 1996* (NSW), the term is not restricted to envelopes or letters but should be read as a reference to all "articles" carried by or on behalf of Australia Post.

As such, Australia Post appears to treat itself as exempt from the minimum rates for contract carriers set out in the Transport Industry – General Carriers Contract Determination 2017, both in terms of contract carriers engaged directly by Australia Post to deliver parcels and contract carriers engaged by private service providers for the delivery of parcels on behalf of Australia Post.

This gives Australia Post an advantage in terms of its ability to engage contractors to deliver parcels in New South Wales at lower rates than its competitors.

### (e) Australia Post enjoys a net competitive advantage

The fact that Australia Post appears to be exempt from complying with the Determination for the provision of its services in relation to "articles", which relevantly includes both mail and parcels, highlights how Australia Post uses its position as a GBE to negate competing with private delivery providers such as CAPEC Members. By conflating the

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<sup>62</sup> Transport Industry - General Carriers Contract Determination 2017:  
[https://www.industrialrelations.nsw.gov.au/assets/Uploads/publications/Transport-award-listing-157/Transport-Industry-General-Carriers-Contract-Determination-2017-award\\_0105.pdf](https://www.industrialrelations.nsw.gov.au/assets/Uploads/publications/Transport-award-listing-157/Transport-Industry-General-Carriers-Contract-Determination-2017-award_0105.pdf)

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definition of “articles”, Australia Post has effectively been able to camouflage its commercial parcel delivery services as mail delivery services to achieve a net competitive advantage in relation to engaging contract carriers and complying with the relevant Determination.

Although CAPEC Members understand that Australia Post may contract with private courier on a per delivered article basis, it is not clear whether this arrangement would meet the minimum rates set out in the Determination.

### 5.3 Preferential use of public roads and access to other public assets that are not otherwise available to CAPEC Members

#### (a) Use of local roads for the delivery of parcels by Australia Post

Each State and Territory has prescribed rules exempting Australia Post from adherence with certain road rules in relation to the delivery of mail. Set out below are some examples relating to the operation of these exemptions in NSW under the *Road Rules 2014* (NSW):

- (i) Prohibition on stopping in mail zones: Although regular drivers are prohibited from stopping in mail zones,<sup>63</sup> this does not apply to drivers of postal vehicles.<sup>64</sup> A postal vehicle means a vehicle driven by a postal worker, which is an employee of Australia Post or another person engaged by Australia Post to deliver post.<sup>65</sup>
- (ii) Prohibition on driving up one-way streets: Drivers cannot drive in the opposite direction of a one-way street.<sup>66</sup> This prohibition does not apply to riders of a motor bike that is a postal vehicle.
- (iii) Prohibition on stopping at side of clearway: Drivers cannot stop at the side of the road in a clearway,<sup>67</sup> except for postal vehicles engaged in the clearance of mail from an Australia Post public post box.

If CAPEC Members engaged in the same activity they would be subject to a fine.

CAPEC appreciates that Australia Post can use legitimate exemptions to the road rules for the purposes of performing its community service obligations. However, the extension of these advantages into competitive parcels delivery results in an unfair distortion of competition in that market arising from Australia Post’s government ownership, in contravention of principles of competitive neutrality.

#### (b) The delivery of parcels to the consumer and local distribution

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<sup>63</sup> *Road Rules 2014* (NSW), s 186.

<sup>64</sup> *Road Rules 2014* (NSW), s 313.

<sup>65</sup> *Road Rules 2014* (NSW), s 4.

<sup>66</sup> *Road Rules 2014* (NSW), s 98.

<sup>67</sup> *Road Rules 2014* (NSW), s 176.

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Australia Post has been able to effectively leverage its established letter delivery network and extensive retail infrastructure to pivot from the delivery of letters to the delivery of parcels.

IBISWorld has indicated that Australia Post's network is "extensive" and that it has sought to grow its activities in parcel transport, which has involved "*considerable capital investment and the use of its existing retail and delivery network to provide extra services, such as delivering small items on standard postal routes alongside letters*".<sup>68</sup> It was further noted in this context that "*Australia Post is connected to the largest retail network in Australia, which is a major advantage for the company as demand for parcel delivery grows*".<sup>69</sup>

In addition to its network and infrastructure, Australia Post is permitted to deliver goods to PO Boxes, Australia Post's 24/7 parcel lockers and third-party collection points (such as Woolworths), so that customers can collect packages themselves. These include StarTrack goods.

CAPEC Members understand that Australia Post increasingly uses its postal network for the delivery of parcels. CAPEC Members consider that they are not able to effectively compete with Australia Post in the delivery of parcels as they cannot rival the networks and infrastructure developed over decades by Australia Post.

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## 6 Conclusion

For the reasons outlined above, existing regulations, combined with Australia Post's dominant size and other advantages it enjoys arising from its government ownership, creates an uneven playing field that confers an unfair competitive advantage on Australia Post. This distorts competition in the competitive market for parcel delivery in a way that is contrary to the principles of competitive neutrality.

CAPEC requests that the AGCNCO consider this submission and undertake an investigation into what CAPEC regards as a clear breach of the competitive neutrality principles.

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<sup>68</sup> IBISWorld Report, *Postal Services in Australia*, June 2021, pg 6.

<sup>69</sup> IBISWorld Report, *Postal Services in Australia*, June 2021, pg 17.



## CAPEC competitive neutrality complaint

### Annexure 1 – Competitive Neutrality Reporting Matrix prepared by CAPEC

The Commonwealth, States and Territories are required to report annually on competitive neutrality compliance, in observance with the competitive neutrality report requirements under the Competition and Infrastructure Regulation Agreement. The Heads of Treasuries are responsible for agreeing and publishing online the annual competitive neutrality matrix on the Council of Federal Financial Relations website.<sup>70</sup> We have detailed in Table 1 below the competitive neutrality reporting obligations as they apply to Australia Post from 2011 to 2018 on a financial year basis. Data from 2017-18 onwards has not been published by the Council of Federal Financial Relations and has not been included below.

In summary, the data available suggests that Australia Post self-reports itself as compliant with its competitive neutrality obligations, as up to 2017-18.

**Table 1 – Annual Competitive Neutrality Matrix Data (2011-12 to 2017-18)**

Year <sup>71</sup>	Assessed subject to CN(1)	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/ planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
2011-12 to 2014-15	Yes	Yes	Yes Post is able to borrow from the private sector and must comply with CN.	Yes	Yes	Yes Disclosed in the Corporate Plan for publication.	Yes	Yes These are outlined in Part 2 of GBE Guidelines and enabling legislation.	Yes Part 3 of GBE Guidelines requires broad financial and non-financial performance measures to be reported in the Corporate Plan for publication.	Yes	Yes	Yes Dividend policy outlined in Part 4 of GBE Guidelines.	Yes Required under Section 6.1 of the CN Guidelines.	Yes Covered as part of Annual Report.	Yes Part 1 of the GBE Guidelines requires government policy orders specifying the application of policy to a GBE be in writing and placed on the Federal Register of Legislative Instruments. Enabling legislation also provides for directions to be in writing and tabled in Parliament.	N/A Enabling legislation is consistent with CN (e.g. Post is liable for all C'wealth and State taxes).

<sup>70</sup> [https://www.federalfinancialrelations.gov.au/content/performance\\_reporting.aspx](https://www.federalfinancialrelations.gov.au/content/performance_reporting.aspx)

<sup>71</sup> From 2015-16 the format of the competitive neutrality reporting matrix was amended. Accordingly, the table has been updated to reflect the data input for the financial years 2015-16 to 2017-18 under each corresponding matrix heading.



## CAPEC competitive neutrality complaint

Year <sup>71</sup>	Assessed subject to CN(1)	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/ planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
2015-16 to 2017-18	Yes	Yes	Yes Australia Post does not pay any debt neutrality fees in light of its government ownership, however significant costs are imposed on the entity through its letters Community Service Obligations (CSO).	Yes	Yes	Yes	Yes	Yes For Australia Post, further details are specified in its enabling legislation, the <i>Australian Postal Corporation Act 1989</i> .	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes There are no derogations from CN in the enabling legislation for Australia Post.



## Annexure 3 – CN 23 Form

CUSTOMS DECLARATION						CN 23
No. of item (barcode, if any)						May be opened officially
						Important!
						See instructions on the back
<b>From</b>		Sender's customs reference (if any)				
Name						
Business						
Street	Tel. No.					
Postcode	City					
Country						
<b>To</b>		Importer/addressee reference (if any) (tax code)/VAT No./importer code (optional)				
Name						
Business						
Street	Tel. No.					
Postcode	City					
Country						
Detailed description of contents (1)	Quantity (2)	Net weight (in kg) (3)	Value (5)	For commercial items only		
				HIS tariff number (7)	Country of origin of goods (8)	
Total gross weight (4)			Total value (6)	Postal charges/Fees (9)		
Category of item (10)		Commercial sample		Office of origin/Date of posting		
Gift		Returned goods				
Documents		Sale of goods				
Comments (11): (e.g.: goods subject to quarantine, sanitary/phytosanitary inspection or other restrictions)						
Licence (12) No(s). of licence(s)	Certificate (13) No(s). of certificate(s)	Invoice (14) No. of invoice		I certify that the particulars given in this customs declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations		
				Date and sender's signature (15)		

## Instructions

You should attach this customs declaration and accompanying documents securely to the outside of the item, preferably in an adhesive transparent envelope. If the declaration is not clearly visible on the outside, or if you prefer to enclose it inside the item, you must fix a label to the outside indicating the presence of a customs declaration.

To accelerate customs clearance, complete this declaration in English, French or in a language accepted in the destination country. If available, add importer/addressee telephone number and e-mail address, and sender telephone number.

To clear your item, the Customs in the country of destination need to know exactly what the contents are. You must therefore complete your declaration fully and legibly; otherwise, delay and inconvenience may result for the addressee. A false or misleading declaration may lead to a fine or to seizure of the item.

Your goods may be subject to restrictions. It is your responsibility to enquire into import and export regulations (prohibitions, restrictions such as quarantine, pharmaceutical restrictions, etc.) and to find out what documents, if any (commercial invoice, certificate of origin, health certificate, licence, authorization for goods subject to quarantine (plant, animal, food products, etc.) are required in the destination country.

Commercial item means any goods exported/imported in the course of a business transaction, whether or not they are sold for money or exchanged.

(1) Give a detailed description of each article in the item, e.g. "men's cotton shirts". General descriptions, e.g. "spare parts", "samples" or "food products" are not permitted.

(2) Give the quantity of each article and the unit of measurement used.

(3) and (4) Give the net weight of each article (in kg). Give the total weight of the item (in kg), including packaging, which corresponds to the weight used to calculate the postage.

(5) and (6) Give the value of each article and the total, indicating the currency used (e.g. CHF for Swiss francs).

(7) and (8) The HS tariff number (6-digit) must be based on the Harmonized Commodity Description and Coding System developed by the World Customs Organization. "Country of origin" means the country where the goods originated, e.g. were produced/manufactured or assembled. Senders of commercial items are advised to supply this information as it will assist Customs in processing the items.

(9) Give the amount of postage paid to the Post for the item. Specify separately any other charges, e.g. insurance.

(10) Tick the box or boxes specifying the category of item.

(11) Provide details if the contents are subject to quarantine (plant, animal, food products, etc.) or other restrictions.

(12), (13) and (14) If your item is accompanied by a licence or a certificate, tick the appropriate box and state the number. You should attach an invoice for all commercial items.

(15) Your signature and the date confirm your liability for the item.



## CAPEC competitive neutrality complaint

### Annexure 4 – Short Form SAC

#### Schedule 1—SAC (SHORT FORM)

##### *Approved Statement – Customs Act 1901 subsection 71AAAF(1)*

Item No.	Short title	Information required
1.	Are the goods prohibited or restricted imports or do you wish to refer these goods to the Department for assessment of prohibited or restricted status?	Indicate whether the goods prohibited or restricted imports or the person giving the declaration wishes to refer the goods to the Department for assessment of prohibited or restricted status.
2.	Are the goods alcohol or tobacco products?	Indicate whether the goods are alcohol or tobacco products.
3.	Do you wish to refer these goods to the Department of Agriculture	Indicate whether the person giving the declaration wishes to refer the goods to the Department of Agriculture.
4.	Referral Reason Description	If the person making the declaration has indicated that the goods should be referred to the Department and/or the Department of Agriculture – the reason why he or she believes that the goods require further assessment.
5.	Branch Identifier	The six character alphanumeric identifier allocated by the Department that further identifies a branch within the company or body making the declaration.
6.	Communicator Reference	The reference allocated by the person giving the declaration and used by him or her to identify the declaration.
7.	Owner Reference	The identifier assigned by the owner to identify (and distinguish from others) the declaration and all subsequent amendments to the declaration.
8.	Communicator Contact Phone Number	The telephone number of the person to be contacted in relation to this declaration.
9.	Importer Identifier	The Australian Business Number (ABN) or combination ABN and Client Activity Centre identifier (CAC) issued by the Australian Taxation Office (ATO), or Customs Client Identifier (CCID) that identifies the owner of the goods.
10.	Owner ABN	The Australian Business Number (ABN) of the owner of the goods.
11.	Owner CAC	The Client Activity Centre identifier (if any) issued by the Australian Taxation Office (ATO) to the owner.
12.	Owner CCID	If the owner does not have an ABN or does not want to use it – the identifier assigned by the Department to the owner.
13.	Owner Name	The full name of the person who is the owner of the goods.
14.	Owner Address	The address of the owner of the goods.
15.	Delivery Name	The full name of the person, business or other entity to whom the goods are finally destined.

## CAPEC competitive neutrality complaint

Item No.	Short title	Information required										
16.	Delivery Address	The address identifying where the goods are finally destined.										
17.	Arrival Date	Date of arrival of the ship or aircraft at the Australian port or airport at which the goods subject of the declaration are to be, or were, discharged.										
18.	Goods Description	A description of the goods sufficient for the Department to ascertain the correct classification of the goods.										
19.	Discharge Port Code	The UN/LOCODE for the place where the first port or airport where goods will be, or were, unloaded is located.										
20.	Destination Port Code	The UN/LOCODE for the place where the goods are requested to be, or were, released into home consumption or entered into a warehouse.										
21.	Mode of Transport	The code indicating the mode of transport of the goods: <ul style="list-style-type: none"><li>• Air</li><li>• Sea</li></ul>										
If the goods are to be, or were, imported by AIR – Items 22 to 23 are required.												
22.	Master Air Waybill Number	The master air waybill number relating to the goods.										
23.	House Air Waybill Number	The house air waybill number relating to the goods.										
If the goods are to be, or were, imported by SEA – Items 24 to 27 are required.												
24.	Voyage Number	The voyage number of the ship that is, or was, carrying the goods.										
25.	Vessel Identifier	The identifier of the ship that is, or was, carrying the goods which is either: <ul style="list-style-type: none"><li>• The Lloyd's identification number of the vessel; or</li><li>• If the vessel does not have a Lloyd's identification number, the identification code allocated to the operator of the ship by the Department.</li></ul>										
26.	Cargo Type	Indicate whether the goods are containerised, non-containerised or bulk: <table><tr><td>B/B</td><td>Break Bulk</td></tr><tr><td>BLK</td><td>Bulk</td></tr><tr><td>FCL</td><td>Full Container Load</td></tr><tr><td>FCX</td><td>Full Container Multiple House Bill</td></tr><tr><td>LCL</td><td>Less Than Container Load</td></tr></table>	B/B	Break Bulk	BLK	Bulk	FCL	Full Container Load	FCX	Full Container Multiple House Bill	LCL	Less Than Container Load
B/B	Break Bulk											
BLK	Bulk											
FCL	Full Container Load											
FCX	Full Container Multiple House Bill											
LCL	Less Than Container Load											
27.	Container Number	The unique identifier assigned by the marine industry to the container the goods are packed in.										
If the goods contain alcohol or tobacco – Items 28 to 44 are required.												
28.	EFT Payment Indicator	Indicate whether the liability arising from the declaration is to be paid by electronic funds transfer.										
29.	Supplier Name	The full name of the company or individual that supplied the goods for export.										



## CAPEC competitive neutrality complaint

Item No.	Short title	Information required
30.	Origin Country Code	The code for the country in which the goods were made, produced, manufactured, or otherwise originated, other than for preferential purposes, being: (a) the ISO Country Code for that country; or (b) where there is no ISO Country Code available for that country, as provided by the Department.
31.	Valuation Date	The date of export of the goods from the place of export.
32.	Header Amount (\$AUD) Customs Value	The invoice value or the price paid for all goods covered by this declaration, in Australian dollars.
33.	Header Amount (\$AUD) Transport & Insurance	The total value of transport and/or insurance, if any, for the goods covered by this declaration, in Australian dollars.
34.	Supplier Identifier	The alphanumeric code, as allocated by the Department that identifies the supplier of the goods.
35.	Vendor Identifier	The ATO Reference Number (ARN) or Australian Business Number (ABN) issued by the Australian Taxation Office (ATO) that identifies the seller of the goods is registered for Goods and Services Tax (GST).
36.	Tariff Classification Number	The eight digit tariff classification, under which the goods are classified, as specified in Schedule 3 of the <i>Customs Tariff Act 1995</i> .
37.	Statistical Code	A two digit number that identifies the goods against the classification or at a more detailed level.
38.	Customs Value Amount (\$AUD)	The invoice value or the price paid for the line of goods, in Australian dollars.
39.	GST Exemption Code	If the goods are exempt from Goods and Services Tax (GST) – indicate which exemption applies to the goods.
40.	WET Exemption Code	If the goods are exempt from Wine Equalisation Tax (WET) – the code indicating which exemption applies to the goods.
41.	WET Quote Indicator	If the goods are wines and the owner has been approved for deferral – indicate whether the payment of WET is being deferred
42.	Quantity	For each line of goods if the Combined Australian Customs Tariff Nomenclature and Statistical Classification requires the quantity of the goods to be provided – the net quantity of the goods.
43.	Quantity Unit	If a quantity is required under item 40 – the unit of quantity.
44.	Consignment Reference	The reference assigned by a cargo reporter that, in combination with the House Air Way Bill (HAWB) number, identifies cargo of a particular consignment.

### Annexure 5 – Air Cargo Report Form

#### Schedule 1— CARGO REPORT (AIR)

##### *Approved Statement – Customs Act 1901 subsection 64AB(4B)*

Item No.	Short title	Information required
1.	Sender Reference	The identifier assigned by the person communicating the report to identify (and distinguish from others) the report and all subsequent amendments to the report.
2.	Sender Reference Version	The numeric identifier assigned by the person communicating the report to identify the version of the report or the sequence of related reports.
3.	Air Waybill Number Master	The reference number assigned by the carrier or their agent to the transport document covering the total consignment.
4.	Air Waybill Number Sub-Master	The reference number assigned by a cargo reporter or their agent to the transport document covering a consolidation, which forms part of the total consignment.
5.	Air Waybill Number House	<p>The reference number assigned by a cargo reporter that, in combination with the master air waybill number, identifies a house waybill consignment.</p> <p>This field is not required if the cargo reporter is a “special reporter” and the goods are “low value cargo” (as defined in section 63A of the <i>Customs Act 1901</i>).</p> <p>This field is not required if the cargo reporter is a “re-mail reporter” and the goods are a “re-mail item” (as defined in section 63A of the <i>Customs Act 1901</i>).</p>
6.	Flight No	The airline code (as allocated by the International Air Transport Association (IATA)), and flight number (as assigned by the carrier to identify the journey of the aircraft) for the flight carrying the goods.
7.	Arrival Date	For each airport the aircraft is stopping at in Australia - the date on which the aircraft is expected to arrive at the airport.
8.	Port Code Discharge	For each airport in Australia at which goods will be unloaded - the UNLocode, as published by the United Nations Economic Commission for Europe (UN/ECE), for the place where the airport is located.
9.	Port Code Destination	The UN/LOCODE for the place where the goods are requested to be, or were, released into home consumption or entered into a warehouse.
10.	First Australian Port Code	The UNLocode for the place where the first Australian airport the aircraft is expected to arrive at is located.
11.	Original Loading Port Code	The UNLocode for the place where the goods were originally loaded onto the aircraft that is carrying the goods to Australia.
12.	Waybill Origin Port Code	The UNLocode for the place where the original air waybill was first cut.
13.	Responsible Party ID	The Australian Business Number (ABN), or code allocated by the Department (the Customs Client Identifier or CCID), that identifies the cargo reporter.



## CAPEC competitive neutrality complaint

Item No.	Short title	Information required
14.	Importer Identifier	The Australian Business Number (ABN) or combination ABN and Client Activity Centre identifier (CAC) issued by the Australian Taxation Office (ATO), or Customs Client Identifier (CCID) that identifies the owner of the goods.
15.	Vendor Identifier	The ATO Reference Number (ARN) or Australian Business Number (ABN) issued by the Australian Taxation Office (ATO) that identifies the seller of the goods is registered for GST.
16.	Supplier Identifier	The alphanumeric code, as allocated by the Department that identifies the supplier of the goods.
17.	Consignee Name	The name of the person who is the ultimate recipient of the goods, whether or not the person ordered or paid for the goods.
18.	Consignee Address	The actual physical address of the consignee.
19.	Consignee Contact	The name of a person nominated to receive notifications, arrange payments and take delivery of the goods.
20.	Consignee Contact Phone Number	The phone number of the person identified in item 16.
21.	Consignor Name	If the report is required under subsection 64AB(2) - the name of the supplier of goods who is located outside Australia and initiates the sending of goods to a person in Australia or complies with a request from a person in Australia to send goods to the person. If the report is required under subsection 64AB(2A) - the name of the supplier of goods who is located outside Australia and initiates the sending of goods to a person in a place outside Australia or complies with a request from a person in a place outside Australia to send goods to the person.
22.	Consignor Address	The address of the consignor.
23.	Consignor Contact	The name of the consignor or the person who may answer questions on behalf of the consignor.
24.	Consignor Contact Phone Number	The phone number of the person identified in item 20.
25.	Notify Party Name	If the goods are being imported into Australia - the name of the person (the notify party) who may be notified in regards to the goods.
26.	Notify Party Address	The address of the notify party.
27.	Notify Party Contact	If the goods are being imported into Australia - the name of a contact in the notify party.
28.	Notify Party Contact Phone Number	The phone number of the person identified in item 24.
29.	Unique Consignment Reference Number	If cargo is being imported into Australia - the unique reference, consistent with the World Customs Organisation (WCO) guidelines, that identifies a consignment in commercial documents and messages.
30.	Special Reporter Number	If the goods are low value cargo of a particular kind or a re-mail item - the authorisation number allocated by the Department to the special reporter or re-mail reporter to be used when making abbreviated cargo reports.

## CAPEC competitive neutrality complaint

Item No.	Short title	Information required
31.	Overseas Routing Port Code (s)	For each place outside Australia that the goods stopped at on the flight - the UNLocode for the place.
32.	Goods Description	A detailed and accurate description of the goods as shown on the air waybill.
33.	Number of Packages	The total number of packages in which the goods are packed into not including packages packed into a container.
34.	Gross Weight Quantity	The gross weight of the goods including packing.
35.	Gross Weight Unit	The code indicating the unit of weight used to measure the gross weight of the goods; <ul style="list-style-type: none"> <li>• Grams (G)</li> <li>• Kilograms (KG)</li> <li>• Tonnes (T)</li> <li>• Pounds (LB)</li> </ul>
36.	Declared Value	The commercial value of the goods. If the goods have no commercial value - "NDV".
37.	Declared Value Currency Code	The code that identifies the currency of the declared value.
38.	Freight Forwarder Indicator	If goods are being imported into Australia and are a co-load/consolidation – indicate if another cargo reporter will be providing further cargo reports.
39.	Method of Payment	Method by which freight costs are paid.
40.	Reportable Documents Indicator	Indicate if the goods are: <ol style="list-style-type: none"> <li>any paper or other material on which there is writing; or</li> <li>any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; or</li> <li>any paper or other material on which a photographic image or other image is recorded; or</li> <li>any article or material from which sounds, images or writing is capable of being produced with or without the aid of a computer or of some other device; but not such paper, article or other material:</li> <li>that comprises advertising material; or</li> <li>that does not yet contain the sounds, images or writing for the carriage of which it was produced.</li> </ol>
41.	Personal Effects Indicator	If the goods are being imported into Australia - indicate whether the goods are unaccompanied personal effects.



### Annexure 6 – Air Cargo Report Self-Assessed Clearance Form

#### **Schedule 1— SELF-ASSESSED CLEARANCE DECLARATION (AIR) (TO BE COMMUNICATED WITH A CARGO REPORT)**

*Approved Statement – Customs Act 1901 subsection 71AAAF(1)*

Item No.	Short title	Information required
1.	Sender Reference	The identifier assigned by the person communicating the report to identify (and distinguish from others) the report and all subsequent amendments to the report.
2.	Sender Reference Version	The numeric identifier assigned by the person communicating the report to identify the version of the report or the sequence of related reports.
3.	Air Waybill Number Master	The reference number assigned by the carrier or their agent to the transport document covering the total consignment.
4.	Air Waybill Number Sub-Master	The reference number assigned by a cargo reporter or their agent to the transport document covering a consolidation, which forms part of the total consignment.
5.	Air Waybill Number House	The reference number assigned by a cargo reporter that, in combination with the master air waybill number, identifies a house waybill consignment. This field is not required if the cargo reporter is a "special reporter" and the goods are "low value cargo" (as defined in section 63A of the <i>Customs Act 1901</i> ). This field is not required if the cargo reporter is a "re-mail reporter" and the goods are a "re-mail item" (as defined in section 63A of the <i>Customs Act 1901</i> ).
6.	Flight No	The airline code (as allocated by the International Air Transport Association (IATA)), and flight number (as assigned by the carrier to identify the journey of the aircraft) for the flight carrying the goods.
7.	Arrival Date	For each airport the aircraft is stopping at in Australia - the date on which the aircraft is expected to arrive at the airport.
8.	Port Code Discharge	For each airport in Australia at which goods will be unloaded - the UNLocode, as published by the United Nations Economic Commission for Europe (UN/ECE), for the place where the airport is located.
9.	Port Code Destination	The UNLocode for the place where the goods are destined.
10.	Original Loading Port Code	The UNLocode for the place where the goods were originally loaded onto the aircraft that is carrying the goods to Australia.
11.	Waybill Origin Port Code	The UNLocode for the place where the original air waybill was first cut.
12.	Responsible Party Id	The Australian Business Number (ABN), or code allocated by the Department (the Customs Client Identifier or CCID), that identifies the cargo reporter.



## CAPEC competitive neutrality complaint

Item No.	Short title	Information required
13.	Import Identifier	The Australian Business Number (ABN) or combination ABN and Client Activity Centre identifier (CAC) issued by the Australian Taxation Office (ATO), or Customs Client Identifier (CCID) that identifies the owner of the goods.
14.	Vendor Identifier	The ATO Reference Number (ARN) or Australian Business Number (ABN) issued by the Australian Taxation Office (ATO) that identifies the seller of the goods is registered for GST.
15.	Supplier Identifier	The alphanumeric code, as allocated by the Department that identifies the supplier of the goods.
16.	Consignee Name	The name of the person who is the ultimate recipient of the goods, whether or not the person ordered or paid for the goods.
17.	Consignee Address	The actual physical address of the consignee.
18.	Consignee Contact	The name of a person nominated to receive notifications, arrange payments and take delivery of the goods.
19.	Consignee Contact Phone Number	The phone number of the person identified in item 15.
20.	Consignor Name	If the report is required under subsection 64AB(2) - the name of the supplier of goods who is located outside Australia and initiates the sending of goods to a person in Australia or complies with a request from a person in Australia to send goods to the person. If the report is required under subsection 64AB(2A) - the name of the supplier of goods who is located outside Australia and initiates the sending of goods to a person in a place outside Australia or complies with a request from a person in a place outside Australia to send goods to the person.
21.	Consignor Address	The address of the consignor.
22.	Consignor Contact	The name of the consignor or the person who may answer questions on behalf of the consignor.
23.	Consignor Contact Phone Number	The phone number of the person identified in item 19.
24.	Unique Consignment Reference Number	If cargo is being imported into Australia - the unique reference, consistent with the World Customs Organisation (WCO) guidelines, that identifies a consignment in commercial documents and messages.
25.	Goods Description	A detailed and accurate description of the goods as shown on the air waybill.
26.	Number of Packages	The total number of packages in which the goods are packed into not including packages packed into a container.
27.	Gross Weight Quantity	The gross weight of the goods including packing.

## CAPEC competitive neutrality complaint

Item No.	Short title	Information required
28.	Gross Weight Unit	<p>The code indicating the unit of weight used to measure the gross weight of the goods;</p> <ul style="list-style-type: none"> <li>• Grams (G)</li> <li>• Kilograms (KG)</li> <li>• Tonnes (T)</li> <li>• Pounds (LB)</li> </ul>
29.	Declared Value	The commercial value of the goods. If the goods have no commercial value - "NDV".
30.	Declared Value Currency Code	The code that identifies the currency of the declared value.
31.	Self-Assessed Clearance Declaration Indicator	<p>Checking this box means that the person sending the cargo report is also making self-assessed clearance declaration under section 71 of the <i>Customs Act 1901</i>. The self-assessed clearance declaration made by checking this indicator declares that:</p> <ul style="list-style-type: none"> <li>• The value of the goods does not exceed AUD\$1000; and</li> <li>• The description of the goods: <ul style="list-style-type: none"> <li>(i) does not include any word, term or description specified in the document provided by the Department titled SAC thesaurus; or</li> <li>(ii) includes a word, term or description specified in that document but the goods described are not alcohol or tobacco and their importation is not subject to a restriction or permission under a Commonwealth law; and</li> </ul> </li> <li>• The goods are not being referred to the Department of Agriculture for possible quarantine concerns.</li> </ul> <p>Do not check this box if you cannot declare the above with certainty or you wish to provide more information in relation to the goods for the Department or DAWR consideration. A separately lodged self-assessed clearance declaration can be used for this purpose.</p>





# CAPEC competitive neutrality complaint

## Annexure 7 – Air Cargo Report Self-Assessed Clearance Form – Integrated Cargo System Example

ICS  
EXT\_PROD

HELP

Air Cargo Report View



[View EDI Details](#) Version 1

Air Waybill No

Master

Sub-Master

Consignment Reference

Flight No

Discharge

Port Code

Original Loading Port Code

Reported By

Importer ID

Importer TIN

Importer Name

Consignee

Notify Party

Overseas Routing

Port Code(s)

Goods Description

No Of Packages

Consolidated Cargo Status

Declared Value of Goods

Freight Forwarder Indicator

Reportable

Documents Indicator

Personal Effects Indicator

Transit Indicator

House

Arrival Date

First Australian Port Code

Waybill Origin Port Code

Responsible Party

Vendor ID

Supplier ID

Consignor TIN

Consignor Name

Consignor

Unique Consignment Ref No

Special Reporter No

Transshipment No

Quantity

Unit

Declared Value of Goods

Currency Code

Freight Method Of Payment

Self Assessed

Clearance Declaration

Part Shipment Indicator

Created Part Indicator

12 OCT 2021

NZAKL

DHL EXPRESS (AUSTRALIA)

NZAKL

DHL EXPRESS (AUSTRALIA)

AUD

PO

YES

NO


NO

[Event History](#)

[Impending Arrival](#)

[Status](#)

Annexure 8 – N10 Import Declaration



Australian Government

Department of Home Affairs

Import declaration (N10)

Approved Form Section 71K of the Customs Act 1901

NOTICE: The following information, including personal information, is required to be reported under section 71K of the Customs Act 1901 in order to ensure that your goods are properly cleared for delivery into home consumption. Information provided on this form may be disclosed to other agencies, including the Australian Bureau of Statistics and the Australian Taxation Office. If you are required to hold a permit to import these goods, the permit details will also be given to the relevant permit issuing agency. Any false or misleading statements may result in penalty action under section 243T or 243U of the Customs Act 1901. Personal information is collected, used, stored and disclosed by the Department of Home Affairs (the Department) in accordance with the Australian Privacy Principles in schedule 1 of the Privacy Act 1988. Further information regarding how the Department collects, stores, uses and discloses personal information may be found in form 14421 Privacy notice available at [www.homeaffairs.gov.au/forms/documents/14421.pdf](http://www.homeaffairs.gov.au/forms/documents/14421.pdf). More information about how the Department handles personal information can be found in the Department's Privacy Policy at [www.homeaffairs.gov.au/about/access-accountability/plans-policies-charters/policies/privacy](http://www.homeaffairs.gov.au/about/access-accountability/plans-policies-charters/policies/privacy).

Please open this form using Adobe Acrobat Reader. Either type in the fields provided or print this form and complete it using a pen and BLOCK LETTERS. Tick where applicable ☒

☐ Import declaration (s71A) OR ☐ Return in relation to special clearance goods (s70(7))

Official Use Only  
Declaration ID

SECTION A

Owner details – Owner name

Owner ID (ABN, ABN/CAC or CCID)

Owner reference

Biosecurity inspection location

Contact details – Owner phone

Home ( ) Work ( ) Mobile

Owner fax ( )

Owner email

Destination port code

Invoice term type

Valuation date

Header valuation advice number

EFT payment indicator  
(Please tick one only)

YES ☐ NO ☐

IMPORTANT! Please complete sections A, B and C of this form

Valuation elements type

a. Invoice total

b. Overseas freight

c. Overseas insurance

d. Packing costs

e. Foreign inland freight

f. Landing charges

g. Transport and insurance

Amount

Currency

Free on board

Cost insurance and freight

☐ PAID UNDER PROTEST INDICATOR

You MUST attach a statement of the reason/s for protesting the payment of duty.

☐ AMBER STATEMENT/REASON: If you are uncertain about information included in the declaration, or omission of information from that declaration, and consider that as a result the declaration may be false or misleading in a material particular, you must specify the reason/s for that uncertainty.  
(Must be included as an attachment)

DECLARATION

I, \_\_\_\_\_, \*the owner of the goods/agent

of the owner hereby acknowledge that this import declaration of \_\_\_\_\_ pages is true and correct.

Signature of \*the owner of the goods/agent of the owner \_\_\_\_\_

(\*Delete which is not applicable)

Date \_\_\_\_\_

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SECTION B

Please complete the section relevant to the mode of transport for your goods along with the delivery address details.

Import declaration (N10) – Transport details

Mode of transport

AIR

Airline code

Discharge port

First arrival date

House Air Waybill number

Line details

Line number

Master Air Waybill number

Number of packages

Marks and numbers description

First arrival port

Gross weight unit

OR

Mode of transport

SEA

Vessel ID

Discharge port

First arrival date

Ocean bill of lading number

House bill of lading number

Number of packages

Marks and numbers description

First arrival port

Gross weight unit

OR

Mode of transport

POST

Parcel post card number(s)

First arrival date

Discharge port

Gross weight unit

Number of packages

First arrival port

Gross weight unit

OR

Mode of transport

OTHER

Department receipt for goods number

First arrival date

Discharge port

Gross weight

Number of packages

First arrival port

Gross weight unit

DELIVERY ADDRESS

IMPORTANT!

Please complete delivery address details

Name

Address

Locality

State

Postcode

Country

AUSTRALIA

Contact phone number

Page | 39



SECTION C


Import declaration (N10) – Tariff details

Line number		Supplier ID (CCID/ABN)				Vendor ID (ABN/ARN)				Stat. code			
Supplier name						Tariff classification number				Stat. code			
Related transaction indicator (Please tick)		<input type="checkbox"/>		Valuation basis type		Treatment code		GST exemption code		Establishment code			
Goods description								Quantity		Unit		Permit number	
Valuation elements		Type	Amount	Currency	Origin and preference	Origin country	Preference origin country	Preference scheme type	Preference rule type				
		Price											
					Treatment instruments	Instrument type		Instrument number					
					Tariff classification instruments	Instrument type		Instrument number					
Additional information												Producer code	

Line number		Supplier ID (CCID/ABN)				Vendor ID (ABN/ARN)				Stat. code			
Supplier name						Tariff classification number				Stat. code			
Related transaction indicator (Please tick)		<input type="checkbox"/>		Valuation basis type		Treatment code		GST exemption code		Establishment code			
Goods description								Quantity		Unit		Permit number	
Valuation elements		Type	Amount	Currency	Origin and preference	Origin country	Preference origin country	Preference scheme type	Preference rule type				
		Price											
					Treatment instruments	Instrument type		Instrument number					
					Tariff classification instruments	Instrument type		Instrument number					
Additional information												Producer code	

# CAPEC competitive neutrality complaint

## Annexure 9 – N10 Import Declaration (Post)



**Australian Government**  
**Department of Home Affairs**

**Import Declaration (N10) - Post**  
APPROVED FORM SECTION 71K AND APPROVED STATEMENT SECTION 71L OF THE CUSTOMS ACT 1901

**Import Declaration ID**  
(Official use only)

**NOTICE:** The following information, including personal information, is required to be reported under sections 71K and 71L of the Customs Act 1901 in order to ensure that your goods are properly cleared for delivery into home consumption. Information provided on this form may be disclosed to other agencies, including the Department of Agriculture and Water Resources, the Australian Bureau of Statistics and the Australian Taxation Office. If you are required to hold a permit to import these goods, the permit details will also be given to the relevant permit issuing agency. Any false or misleading statements may result in penalty action under section 243T or 243U of the Customs Act 1901. Personal information is collected, used, stored and disclosed by the Department of Home Affairs (the Department) in accordance with the Australian Privacy Principles in schedule 1 of the Privacy Act 1988. Further information regarding how the Department collects, stores, uses and discloses personal information may be found in form 1442: Privacy notice available at [www.homeaffairs.gov.au/forms/documents/1442.pdf](http://www.homeaffairs.gov.au/forms/documents/1442.pdf). More information about how the Department handles personal information can be found in the Department's Privacy Policy at [www.homeaffairs.gov.au/about/access-accountability/plans-policies-charters/policies/privacy](http://www.homeaffairs.gov.au/about/access-accountability/plans-policies-charters/policies/privacy).

**HOW TO FILL IN THIS FORM:** Instructions on how to complete this form are available from [www.homeaffairs.gov.au](http://www.homeaffairs.gov.au).

**PLEASE NOTE!** When submitting this form by fax, mail or by hand, you must sign the declaration (below). When sent by email, follow the requirements at the bottom of this form.

Please open this form using Adobe Acrobat Reader. Either type in the fields provided or print this form and complete it using a pen and BLOCK LETTERS.

**OWNER / RECIPIENT DETAILS** Provide at least one phone, email or fax contact — you must supply all (except fax) if available

First name:		Last name (or Organisation):	
Address:		Phone:	
		Mobile:	
State: Postcode:		Fax:	
Client identity reference (ABN/CAC or CCID IF KNOWN)		Email (if applicable):	

**SENDER/SUPPLIER DETAILS** Provide the details of the person or organisation that sent or supplied the goods

First name:		Last name (or Organisation):	
Address:		Phone:	
		Mobile:	
State: Postcode:		Fax:	
Supplier identity reference (ABN/CCID IF KNOWN)		Vendor ID (ABN/ARN):	

**PARCEL(S) INFORMATION** Provide the details about the mail reference number, country of origin, date of export or invoice, the weight and number of parcels

Mail reference (As per the Australia Post Notice you received. Reference MUST BEGIN with N, V, Q or W)	Total number of parcel(s):	Weight of parcel(s) (IF KNOWN):
		Kg
Country of origin (IF KNOWN):	Date of export or invoice:	

**PARCEL(S) CONTENTS** Provide a description of the goods, value of the goods, post and insurance costs, the tariff classification for the goods and GST Exemption Code

Description of the goods (one type of goods per line)	Tariff classification of the goods	Stat Code	Quantity	Value of goods	Concession (optional)	GST Exemption Code

There is additional space over the page if you have more than three different types of goods to declare.

Value of the postage and insurance <input type="checkbox"/> AS <input type="checkbox"/> US\$ <input type="checkbox"/> Other (please specify) \$	Total value of the goods <input type="checkbox"/> AS <input type="checkbox"/> US\$ <input type="checkbox"/> Other (please specify) \$
--	--

**DECLARATION** I am 18 years of age or older and I declare the information provided above and on any attached pages is true and correct, to the best of my knowledge.

It is an offence under the Customs Act 1901 to make a false declaration to the Department of Home Affairs.	Name:	
	Signature:	Date: / /

No written signature is required when this declaration is sent by email:

- As an individual you must include your full name separately in the email; or
- For an organisation, you must include the Name and ABN of the organisation separately in the email and the full name of the individual sending the email.



## CAPEC competitive neutrality complaint

[illegible]

## CAPEC competitive neutrality complaint

### Instructions How to fill in the form *Import Declaration (N10) Post*

Additional assistance is available online at [www.homeaffairs.gov.au](http://www.homeaffairs.gov.au)

Please type or print in BLOCK letters. Make your contact details clear to avoid delays

Most of the information required for this declaration may be on the First Notice you received from Australia Post.

#### OWNER / RECIPIENT DETAILS

1

**NAME** – You must tell us the First name and the Last name (or the Organisation name) of the owner or importer of the goods – that is – the person, company or organisation to whom the parcel/s is/are addressed.

**ADDRESS** – You must tell us the address to where the parcel/s is/are being sent (delivered).

**PHONE, MOBILE, FAX** – If you have a phone number (land line), a mobile phone number and/or an email address you must provide those contact details – If we cannot contact you that may create delays in clearing your goods. At least one contact number must be supplied.

**CLIENT IDENTITY REFERENCE** – If you have an Australian Business Number use that as your Client Identity Reference and include your Client Identity Centre number as well. (Example: 99 123 456 789 / 001); or

If you already have a Customs Client ID (CCID) number (refer to a previous receipt where you paid duty and/or Goods and Services Tax (GST) to the Commonwealth) you may use that number. If known, you must provide your ABN or CCID otherwise you may leave this field blank if you do not know your CCID number or have not previously received a CCID number.

#### SENDER / SUPPLIER DETAILS

2

You must tell us the name and address of the person or company who sent the parcel/s to you. If you purchased goods from an internet auction site and you do not know the seller's address mark the address field with the seller information – for example – 'Ebay Seller US' or 'Ebay Seller Japan' – do not leave this section blank. If known, you must provide your supplier's CCID.

**VENDOR ID** – The Vendor ID is the entity's GST (or vendor) registration number, which is either an ATO Reference Number (ARN) or Australian Business Number (ABN).

#### PARCEL(S) INFORMATION

3

**MAIL REFERENCE** – You must record the mail reference number here. You will find this reference number on the Australia Post First Notice at the top right of the page near the bar code. The reference number begins with N, Q, V or W. If you have more than one reference number, regarding parcels from the same supplier you can include those numbers in the additional information box on page 2 of the import declaration.

**COUNTRY OF ORIGIN** – If known, you must tell us the country of origin of the goods. Country of origin means the country where the goods were made, grown, produced, mined, etc which may not be the same country from which the goods were exported to Australia. If you do not know the country of origin mark this section as 'not known' – do not leave this section blank. (A reduction in the duty payable applies to certain countries of origin; no reduction will be applied if you have marked this section 'not known'.)

**DATE OF EXPORT OR INVOICE** – you must tell us the date the parcel/s was/were posted from overseas (that date may be shown on the Australia Post First Notice). If you do not know the date of export please record the date of purchase shown on your invoice.

**WEIGHT OF PARCEL/S** – You must tell us the total weight of the parcel/s (it may be shown on the Australia Post First Notice). If you do not know the weight then mark this section 'not known' – do not leave this section blank. You must also tell us the number of parcels.

#### PARCEL(S) CONTENTS

**DESCRIPTION OF GOODS** – You must be specific and describe the goods in a clear manner. For example, 12MP digital camera, a 92 cm digital television, a notebook computer, a silk and lace wedding dress. It is not acceptable to use terms like: gift, present, goods, equipment, gear, kit, donation and apparatus – if you use such terms there will be a delay in clearing your goods (see example below).

**CLASSIFICATION OF THE GOODS** – You must classify your goods in accordance with the Customs Tariff Act 1995 (the Tariff). You may use the short Tariff (commonly imported items) included as part of the Notice to Importers provided by the Department of Home Affairs (the Department) (also at [www.homeaffairs.gov.au](http://www.homeaffairs.gov.au)). That notice tells you what you should do if you require assistance to classify your goods. You must provide the 8 digit Tariff number plus the 2 digit statistical code number. The tariff number determines the rate of duty that applies to your goods (see example below).

**QUANTITY** – You must tell us how much or how many of each item there is for each item you have listed (see example below) e.g. for wine 2.5L. **VALUE OF GOODS** – You must tell us the true and correct value of the goods (that is the amount you paid for the goods) for each type of goods you have listed (see example below – 2 digital cameras at US\$700 ea.). The Department can demand to see your invoices or other evidence that shows what you paid. Do not provide values you know to be incorrect (even when those values are provided by the supplier). Undervaluing goods is an offence under the Customs Act 1901. Duty is calculated on this value.

Example

Description of the goods (one type of goods per line)	Tariff classification of the goods	Stat Code	Quantity	Value of goods	Concession (optional)	GST Exemption Code
DIGITAL CAMERA	8 5 2 5 8 0 1 9	1 9	2	1,400		

**CONCESSION (Optional)** – You may include information that will help determine the correct duty, GST and other taxes and charges. If you know an item number to Schedule 4 of the Tariff (or a by-law) that applies, you should record that information here. If you intend to claim that a free trade agreement applies, you need to state that here and you must record the 'country of origin' in the Parcel/s information section of the import declaration. You may be required to provide qualifying evidence for any concession you claim.

**GST EXEMPTION CODE (Optional)** – A GST exemption code of 'PAID' can be recorded to indicate when GST has been paid to the supplier on eligible goods with a customs value of \$1,000 or less. The GST-paid exemption code cannot be used for imports of tobacco, tobacco products and alcohol on goods with a customs value over \$1,000. Existing GST exemption codes should continue to be used, where applicable, for goods that are GST exempt.

**VALUE OF POSTAGE AND INSURANCE** – You must tell us the true and correct amount paid for posting the goods to you and the amount paid to insure the goods for carriage by post and you must indicate in what currency the amount was paid. GST is calculated by including the postage and insurance charges with the value and the duty payable.

**TOTAL VALUE OF THE GOODS** – You must tell us the total value of all the goods and in all cases; you must indicate in what currency the amount was paid, for example – \$1,400 in US dollars.

#### DECLARATION

4

**DECLARATION** – You must sign the declaration if you intend to send it by fax or mail to the Department or deliver it by hand. No written signature is required if you send the completed declaration by email but the following information must be included separately in the same email.

- As an individual, you must include your full name; or
- For an organisation, you must include the Name and the ABN of the organisation and the full name of the individual sending the email.





## AGCNCO Investigation into NBN Co.

### Background

- On 30 October 2020, the Australian Government Competitive Neutrality Complaints Office (AGCNCO) received a CN complaint against NBN Co.
- The complaint was from OptiComm — a wholesale operator that build, operate and maintain fibre telecommunication networks, typically in new or recently developed housing estates. Since making the complaint, OptiComm was acquired by Uniti Group Ltd.
- The complaint identified two areas of concern:
  - NBN Co's forecast rate of return of 3.2 per cent did not constitute a commercial rate of return
  - the regulatory environment favoured NBN Co in favour of its competitors.
- In investigating the complaint, the AGCNCO examined matters related to NBN Co's debt neutrality, tax neutrality, regulatory neutrality, competitive disadvantages and rate of return, along with other matters related to competitive neutrality.

### Findings

- **Debt Neutrality**
  - The Government's \$19.5 billion loan was not provided and is not being provided on a basis that accords with debt neutrality requirements, but as this debt was exempted from application of CN policy by way of Government decision, NBN Co. is not in breach of debt neutrality requirements (**finding 2.1**).
  - NBN Co is not complying with debt neutrality requirements on parts of its private debt (**finding 2.2**).
    - to comply with requirements, NBN Co should make debt neutrality payments of an amount that reflects the cost-of-debt advantage it enjoys because it is government-owned. The Australian Government should request an entity independent of NBN Co to calculate the difference between NBN Co's actual and benchmark cost of debt (**rec 2.1**).
- **Tax Neutrality**
  - NBN Co is complying with its tax neutrality obligations under CN policy (**finding 3.1**).
- **Regulatory Neutrality**
  - The AGCNCO investigated four areas where it believed NBN Co enjoyed a regulatory advantage from government ownership. The Office found:
    - 'wholesale only' requirements under Part 8 of the Telecommunications Act were not a breach of regulatory neutrality under CN policy (**finding 4.1**).
    - the Regional Broadband Scheme levy did not breach regulatory neutrality (**finding 4.2**).
    - changes to the 2020 Telecommunications in New Developments Policy did not breach regulatory neutrality (**finding 4.3**).

- that the 2018 Low-impact Facilities Determination advantages NBN Co, and is contrary to the objective of competitive neutrality policy, but was not a breach of regulatory neutrality by NBN Co (**findings 4.4-4.5**).
  - AGCNCO recommended the qualification conditions for determining which network providers are able to install certain low impact facilities be reviewed, with a view of making the regulatory regime neutral (**rec 4.1**).
- In response to concerns from telecommunications companies during the investigation, the AGCNCO also investigated spectrum allocation and pricing for NBN Co and found no breach of regulatory neutrality (**finding 4.6**).
- **Competitive disadvantages**
  - The AGCNCO found that there were some sources of competitive disadvantage for NBN Co because of its government ownership — including as a result of its Statutory Infrastructure Provider Status (**finding 5.9**) and losses on its provision of fixed wireless and satellite network services (**finding 5.1**).
- **Commercial rate of return**
  - The AGCNCO found that NBN Co has not received a commercial rate of return on its assets from its inception and has not had target rates of return commensurate with the cost of capital for a business of its nature (**finding 6.1**).
  - Factors outside the control of NBN Co have contributed to this outcome. In early years, NBN Co had to bear disadvantages associated with prioritising rollout in regional and remote Australia and had higher than anticipated costs associated with the Government decision to pursue a multi-technology mix of the roll out (**finding 6.1**).
  - NBN Co is unlikely to earn a commercial rate of return in the future if the asset values used to measure rates are those reported in its annual reports or to the ACCC. However, it appears likely that those assets exceed their market value (**finding 6.1**).
  - There is little evidence to suggest that in future, NBN Co will set prices or make investments in breach of the requirement to make a commercial rate of return on its properly measured asset value (**finding 6.1**).
  - There are grounds to make the real value of NBN Co's assets more transparent. However, this need not require an accounting or regulatory write-down (**pp. 9-10**).
  - There are also grounds to clarify the nature of the commerciality test in CN policy to take account of the fact that policy constraints or unexpected shocks can make it impossible for a commercially orientated business to make an ex post commercial rate of return on its assets. A revision could be a requirement that a government business manage its costs, set prices and undertake investments that are likely to maximise profits in the environment it faces (**p. 10**).
- **Other competitive neutrality issues**
  - In examining other competitive neutrality issues, the AGCNCO recommended that:
    - Treasury should develop more guidance material (including on how to calculate the difference between the actual and benchmark cost of debt where no direct market is available) (**rec 7.1**).
    - NBN Co should improve its competitive neutrality reporting by providing more information in its annual reports (**rec 7.2**).
    - shareholder agencies should improve their reporting of competitive neutrality compliance (**rec 7.2**).

## Productivity Commission staffing numbers

### Key points

- Recruitment activity has continued to be a key priority for the Commission.
- For the 2021-22 financial year:
  - 22 merit-based selection exercises were conducted and finalised.
  - Four employment registers were launched during 2021-22 and continue to be actively utilised as an additional way to fill vacancies as they arise.
  - 66 employees commenced (45 ongoing and 21 non-ongoing).
  - 45 employees departed (35 ongoing and 10 non-ongoing).
- From 1 July to 31 January 2023:
  - 9 merit-based selection exercises commenced – 8 completed and 1 still underway.
  - 23 employees have commenced across the Commission (15 ongoing and 8 non-ongoing).
  - 30 employees departed (23 ongoing and 7 non-ongoing).

### Budget paper average staffing levels

The table below shows the actual **average staffing levels** for the Productivity Commission compared to that reported in the Budgets from 2017-18 to 2022-23.

2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Budget ASL
					171	2022-23 Actual (Jan)
				167	192	2022-23
			162	190*		2021-22
		174	172			2020-21
	162	176				2019-20
174	176					2018-19
174						2017-18

\*The increase from 172 to 190 ASL relates to the new functions associated with Closing the Gap.

- The variance in the Commission's Average Staffing Level from budget to actual reflects in part additional staffing associated with new functions under the National Agreement on Closing the Gap (announced in the 2020-21 Budget), as well as unanticipated staff turnover.

## Closing the Gap

The Commission has a number of positions to fill in connection with its new functions in respect of the National Agreement on Closing the Gap, and has been recruiting for these positions since October 2021.

- As at 31 January 2023, the Closing the Gap team comprises 21 team members (18.83 FTE).
- Recruitment to fill vacancies will continue in 2023 as needed.

The funding associated with the Closing the Gap functions provides for FTE as outlined below:

<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
5.7	14.0	15.5	11

## Background

### Closing the Gap Budget Measure

The 2020-21 Budget included a measure for funding for the Commission to deliver functions under the National Agreement on Closing the Gap:

The Government will provide \$10.1 million over four years from 2020-21 (and \$2.6 million per year ongoing) to the Productivity Commission to deliver an annual progress report and an improved dashboard to measure progress towards Closing the Gap targets, as well as a three-yearly review. (Budget paper no. 2, p. 146).

The Commission's functions are:

- developing and maintaining an Information Repository
- developing and maintaining a publicly accessible dashboard, to be updated on a regular basis (at a minimum, annually)
- providing an annual data compilation report
- reviewing progress every three years.

For reference, the 2021-22 PC Annual report outlines the Commission's total expenditure was \$32.5 million and employee benefits (including wages and salaries, superannuation, leave and other entitlements) were \$25.5 million.

- The ongoing provision for the Commission's CtG measures are equivalent to about 7.6 per cent of the Commission's total expenditure and 9 per cent of its expenditure on employee benefits.



### Staffing Snapshot: Overview by Location\*

Staffing as at 31 January 2023			
Overview by Location	Ongoing	Non-ongoing (includes casuals)	Total
Melbourne	101	19	120
Canberra	55	1	56
Totals	156	20	176

### Staffing Snapshot: by Location and Employment Type\*

Staffing as at 31 January 2023						
Employment Type/Location	Full-time ongoing	Full-time non-ongoing	Part-time Ongoing	Part-time Non-ongoing	Casuals	Total
Melbourne	78	11	23	4	4	120
Canberra	45	0	10	0	1	56
Totals	123	11	33	4	5	176

### Staffing Snapshot: by Gender and Employment Type\*

Staffing as at 31 January 2023						
Employment Type/Gender	Full-time ongoing	Full-time non-ongoing	Part-time Ongoing	Part-time Non-ongoing	Casuals	Total
Female	67	5	25	3	2	102
Male	56	6	8	1	3	74
Totals	123	11	33	4	5	176

\* Numbers include SES, but exclude Commissioners employed under the Remuneration Tribunal

- Reports are based on a snapshot in time. Information received after end of month processing will not be retrospectively processed for these reports.

## Ongoing employee cessations

### Current Financial Year Cessations

For the period 1 July 2022 – 31 January 2023, there have been a total of 23 **ongoing** employee separations recorded.

Separation Type – Ongoing – This financial year	
Other	2
Permanent transfer to another APS Agency	4
Promotion to another APS Agency	2
Resignation	12
Retirement	3
<b>TOTAL</b>	<b>23</b>

### Current Secondments

Secondments out – as at 31 January 2023	4
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As at 31 January 2023, there were 4 secondments to the following Agencies:

- The Treasury
- Department of Health
- Australian Competition and Consumer Commission (ACCC)
- Northern Territory Government

### Previous Financial Year

For the period 1 July 2021 – 30 June 2022, there were a total of 35 **ongoing** employee separations recorded.

Separation Type – Ongoing last financial year	
Other	1
Permanent transfer to another APS Agency	9
Promotion to another APS Agency	2
Resignation	17
Retirement	6
<b>TOTAL</b>	<b>35</b>

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**— Exclusive**

# Sexual harassment review ordered for top government advisory body

**Ronald Mizen** *Economics correspondent*



Feb 3, 2023 – 5.00am

Treasury has commissioned an independent review into the Productivity Commission after complaints from staff, including a senior executive, who said management failed to deal with sexual harassment and sexism.

*The Australian Financial Review* has spoken to several current and former staff who claimed the PC had a history of sexual harassment and sexism, that complaints fell on deaf ears and perpetrators were not held accountable.



Treasurer Jim Chalmers. **Alex Ellinghausen**

Most of the group wished to remain anonymous for fear that being identified publicly would hurt their careers, but all said they would go on the record with a

reviewer.

One former PC employee last month wrote a letter to Treasurer Jim Chalmers and Minister for Women Katy Gallagher offering to provide details of sexual harassment and sexism that had not been properly dealt with.

“Multiple women have left the organisation because it has protected sexual predators and not kept them safe,” the letter said.

Dr Chalmers sought advice and referred the matter to Treasury Secretary Steven Kennedy, who commissioned an independent review.

In a speech delivered at a Canberra Christmas party in 2021, a senior female manager publicly aired internal dissent at the PC.

## Needs to be called out

Citing stories such as that of Grace Tame as showing how systems had protected wrongdoers, people present said the PC’s director of media publications and web, Leonora Nicol, did not hold back.

“I would say to all the men in this room, it’s not enough to be a nice guy and not do those things,” she said.

“You need to call out other men. Even if those men are your friends, your colleagues or both. Hold men accountable for their behaviour.

“Imagine a scenario when a known predator was in the workplace and every woman who started there was warned by others because management didn’t deal with the situation, despite several on the record complaints.

“What sort of message does that send to the men in the office about what is acceptable behaviour in the workplace, and what does that say to the women in the office about how they and their safety are valued?”

Ms Nicol – who joined the organisation in 2014 – said the quotes attributed to her were accurate, and even though she had been told the issues would be looked into,



Leonora Nicol, the PC’s director of communications.

she was “saddened and disappointed” about the response.

“Not even a generic statement was made to staff that the Productivity Commission supported a safe work environment free from harassment,” she said.

Ms Nicol said the response to these matters was “a shame” because in many other ways the PC had a great culture: “Egalitarian and honest and friendly. Best federal government agency I’ve ever worked for,” she said.

The letter sent to Dr Chalmers last month expressed similar concerns, and called for an external probe into complaints similar to the High Court.

[<https://www.afr.com/politics/federal/high-court-ashamed-of-heydon-sexual-harassment-20200622-p55552l>]

In late-2019, the High Court appointed investigator Vivienne Thom to look into allegations against former justice Dyson Heydon after a group of women came forward with stories of workplace misconduct.

“Women in the organisation have taken it on themselves to warn female graduates to avoid certain male staff members because management and the chair have not taken sufficient action and internal processes are not functioning properly,” the letter said.

“Indeed, management and [human resources] have retaliated against some victims who have reported harassment.”

A spokeswoman said the PC had been advised of the Treasury investigation “and we will fully co-operate with the process,” she said.

## Recasting the PC’s role

The probe into workplace culture comes as Dr Chalmers prepares to recast the role of the PC. [<https://www.afr.com/policy/economy/chalmers-quietly-plans-overhaul-of-productivity-commission-20230102-p5c9wm>] The treasurer has been quietly canvassing experts for reform ideas that could be implemented later this year.

Dr Chalmers has been working behind the scenes for months on proposals to overhaul the government’s chief independent economic adviser, including looking overseas at alternative operating models.

Although the Australian Council of Trade Unions has called for the abolition of the Productivity Commission, Dr Chalmers has indicated he favours reforming it by broadening and deepening its work on economic policy, and keeping a central focus on boosting productivity. [<https://www.afr.com/policy/economy/productivity-commission-s-job-is-to-speak-truth-to-power-20230112-p5cc3z>]

The changes come as part of a broader push to review and reform the nation's key economic processes and institutions to ensure they remain fit for purpose, after what many in Labor view as a decade of neglect.

This push includes the independent review of the Reserve Bank of Australia, which is due to hand down its findings to the Treasurer next month [<https://www.afr.com/policy/economy/wide-ranging-review-to-scrutinise-under-fire-reserve-bank-20220719-p5b2r5>]; changes to the timing and development of intergenerational reports; the introduction of an annual wellbeing budget; and the creation of an evaluator general.



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**RELATED****Chalmers quietly plans overhaul of Productivity Commission**

<https://www.afr.com/policy/economy/chalmers-quietly-plans-overhaul-of-productivity-commission-20230102-p5c9wm>



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**RELATED****The Productivity Commission's job is speaking truth to power**

<https://www.afr.com/politics/federal/the-productivity-commission-s-job-is-speaking-truth-to-power-20230112-p5cc15>

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## Workplace behaviour at the Commission

### Our ways of working

- Over recent years, the Commission has implemented a **range of activities to support staff and further embed a positive workplace culture** – including to clearly articulate the expectations of workplace behaviour and foster an environment where people feel safe and supported should they need to raise concerns.
- Our **performance capability framework** emphasises the expected behaviours of all staff [which are assessed through six-monthly formal feedback sessions].
  - *These are: Takes Responsibility, Acts with Integrity, Respectful, Collaborative, Open Minded.*
- Our **position descriptions include positive obligations/role modelling behaviours** as a requirement of all staff.
  - This includes detailing the Commission's and APS values and our commitment to creating a culturally safe workplace where individuals feel respected and valued.
  - SES position descriptions specify additional elements as responsibilities/duties:
    - *Fosters a positive workplace culture through promoting safe and inclusive work practices, and supporting effective performance.*
    - *Promotes the APS Values, APS Employment Principles and APS Code of Conduct, ensuring the principles of access, equity and diversity, staff consultation, work health and safety, are applied within the workplace.*
- Our **diversity and inclusion practices** include having a Workplace Diversity and Inclusion (D&I) Strategy, SES D&I Champions, ongoing L&D initiatives, staff networks, and continued engagement with staff on initiatives that aim to foster a positive and inclusive workplace culture.
  - We have a **high representation of females in senior roles** at the Commission.
    - In particular, at the SES level. As at 14 February 2023, 74% of our SES (including acting) are female – with 14 females and 5 males occupying SES roles.
    - As at 31 January 2023, 58% of all staff are female and 42% are male.
      - At the EL 2 level, 49% are female and 51% are male.
      - At the EL 1 level, 65% are female and 35% are male.
      - At the APS 6 level, 50% are female and 50% are male.
- We **regularly seek and act on feedback from staff**, including through active monitoring of exit survey responses, and seeking views and ideas on themes and issues arising from annual APS Census responses.
  - Staff feedback received through these means does not indicate a systemic cultural issue of bullying, sexual harassment or discrimination.



- And our Census results over time show that we consistently have low comparative rates of bullying and harassment as compared to the APS-wide results – although we continue to work towards reducing this rate.
  - *[From 2022 Census results email to staff: The figures on bullying and harassment, although low and not rising, are still above zero and therefore too high].*

## Key policies and procedures

- Our **Workplace Behaviour Policy**, as well as the APS Values and Code of Conduct framework provide the reference point for acceptable workplace behaviour.
  - Our workplace behaviour policy places a positive obligation on all staff to support and maintain a respectful, harassment-free workplace, including by reporting and responding to any instances of unacceptable behaviour observed.
  - It sets out the ‘continuum’ of workplace behaviour – which ranges from consistently respectful conduct to disrespectful behaviour to harassment or bullying ...
  - ...and also includes clear examples of behaviours, and legal definitions of key concepts [such as harassment, bullying, discrimination and victimisation].
    - *As noted in the Foreword:* This policy places a positive expectation on each of us in terms of how we act towards each other – that we will always behave respectfully and courteously in every interaction – no matter the situation, and certainly no matter the role, level or personal characteristics of the people we are working with.
- A full **review** of our Workplace Behaviour Policy and complaints handling process was conducted in late 2020 – mid 2021.
  - This review included extensive staff consultation and engagement, with a number of ‘drop in’ sessions held to raise awareness and seek feedback on a range of policy elements and procedural steps.
  - In undertaking this review, we also considered the findings of *Respect@Work*<sup>1</sup>, and adopted the recommendation to provide an anonymous reporting channel as an important tool to encourage employees to raise concerns and facilitate early identification of sexual harassment and intervention by employers.
    - As of 15 February 2023, **no anonymous complaints** have been lodged via our Anonymous Complaint form.
    - And there are **no formal complaints of sexual harassment or sexism in recorded on our Central Workplace Behaviour Register**.
- We offer **regular training** on the expected standards of workplace behaviour – including:
  - **Biannual formal training** to support a professional and positive workplace culture [most recently run by Respect at Work in 2022, and WorkLogic in 2020]
    - All staff and Commissioners are required to attend a session, and managers are strongly encouraged to attend a separate manager ‘add on’ session.
      - [In 2022, 132 staff attended the general session and 46 staff attended the manager add on].

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<sup>1</sup> The Australian Human Rights Commission’s (AHRC) report of the National Inquiry into Sexual Harassment in Australian Workplaces 2020

- Key aspects of this training includes the Commission's expected behaviours, the APS Values, Employment Principles and Code of Conduct, and core workplace legal requirements such as bullying, harassment (including sexual harassment, equal opportunity and anti-discrimination requirements)
- **Induction and onboarding requirements** which include completing APS behaviour/integrity modules, and attending training sessions delivered by HR that covers the APS framework and the Commission's workplace behaviour policy.
- **Specific training for managers and Contact Officers in complaints handling** [last delivered in late 2021].
- And as an APS agency, we have a range of **other policies and strategies** to promote ethical behaviour, manage concerns and support staff wellbeing [such as the APS Code of Conduct and PID policies, WHS policies/wellbeing support].

## Complaints handling

- Any complaint raised of harassment and/or bullying is investigated.
  - The Commission is committed to considering and addressing complaints promptly and using the most reasonable and practical avenues to support all parties.
  - There are a range of ways staff can share any concerns, including via their manager, another manager or senior manager, our anonymous online complaint form, HR or their contact officer.
  - Our policy and practice provides for a range of ways to resolve issues – including options for local/early intervention, initial review, or a formal process for resolution.
- Supporting the wellbeing of all parties to a complaint is a primary focus in addressing any concerns raised.
  - This reflects the complexities and sensitivities of such matters, including confidentiality/ privacy and procedural fairness considerations for all parties – including the potential impact on others in the workplace.
  - The use and disclosure of complaint information is strictly limited, within the requirements of any resolution processes – and all parties are advised of these confidentiality requirements.
    - Within the confidentiality parameters, individuals are provided with some information to reassure them that we have taken appropriate action to address issues impacting them.
  - Individuals are also made aware of avenues for review if they are dissatisfied with the Commission's handling of matters relating directly to them.
- Over recent years, the Commission has addressed staff concerns about workplace behaviour as they arise.
  - Any action is taken in a proportionate and appropriate way, supporting staff wellbeing and following principles of procedural fairness/natural justice.
  - Without breaching confidentiality aspects, actions taken to address concerns have included counselling, mediation, broader team reviews, and preliminary inquiries under the APS Code of Conduct framework.
    - NOTE: there have been no formal findings (such as a breach of the APS Code of Conduct) related to sexual harassment / workplace behaviour
  - The Commission has confidence that all matters formally raised have been satisfactorily dealt with.



## Workplace behaviour at the Commission

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- We **regularly seek and act on feedback from staff**, including through active monitoring of exit survey responses, and seeking views and ideas on themes and issues arising from annual APS Census responses.
  - Staff feedback does not indicate a systemic cultural issue of bullying, sexual harassment or discrimination.
  - And our **Census results** over time show that we consistently have low comparative rates of bullying and harassment as compared to the APS-wide results – although we continue to work towards reducing this rate.

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  - **Induction and onboarding requirements**
  - **Specific training for managers and Contact Officers in complaints handling**

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- Over recent years, the Commission has addressed staff concerns about workplace behaviour as they arise.



## Morrison topped overturned FOI refusal decisions in 2022

DESPITE being prime minister for only the first five months of 2022, **Scott Morrison** and his department had more freedom of information refusal decisions overruled on review than any other Australian government entity that entire year. It wasn't just his secret ministries that showed Mr Morrison's penchant for quashing any hint of transparency. Every decision by Mr Morrison and **PM&C** to refuse access to documents while he was prime minister was overturned by the commissioner.

taining a mixture of health and economic advice that informed unprecedented lockdowns in the pandemic.

### Most FOI refusals overturned

A mere 65 freedom of information review requests were reviewed by **Information Commissioner Angelene Falk** in 2022, but those she touched revealed there is still a problem across the APS. More than half (37) of those reviewed were overturned or varied despite much effort over several years to educate

subjected to review.

Other over-eager deniers of access to information were the **Department of Industry, Science and Resources**, the **Australian Federal Police**, and the **Department of Climate Change, Energy, the Environment and Water**, the **Productivity Commission** and the **Commonwealth Ombudsman**. Each of these had all their reviewed denials overturned in 2022. **Department of Defence** just missed out on joining their ignoble ranks. Ms Falk affirmed one of Defence's four reviewed







## Maritime inquiry — briefing note

### Main issues in the final report

- Lack of **competition** in some parts of the maritime logistics system hurts consumers.
  - Transport operators have no choice about which terminal they use when picking up or dropping off a container, so must pay whatever fixed charge a terminal operator sets. These charges rapidly increased from 2017. Treasury should develop a mandatory container terminal operator code that would be administered and enforced by the ACCC (recommendation 6.2).
    - This is a shift on the Commission's draft recommendation that terminal operators be limited to levying the charges on shipping lines. The Commission accepted that time is needed to evaluate whether new voluntary arrangements have addressed the issues faced by transport operators, and was concerned that terminal operators would seek instead to raise revenue from incentive charges.
  - Transport operators and cargo owners are paying fees to shipping lines for the late return of containers even where the delay is due to full empty container parks. The exemption for shipping contracts, which means that these fees fall outside the scope of the Australian consumer law, should be removed (recommendation 6.3).
- **Workplace arrangements** lower productivity — incremental changes to the Fair Work Act are needed.
  - Disruptions during recent bargaining imposed large costs on businesses dependent on maritime freight. More graduated responses are needed in the FW Act to address industrial action with substantial economy-wide costs (recommendations 9.2 to 9.7).
  - Limits should be placed on clauses in container terminal operators' enterprise agreements that are highly restrictive and constrain the ways that workers and equipment can be deployed (recommendation 9.1).
- Higher **productivity** at Australia's container ports is achievable.
  - Performance varies markedly between container terminal operators and within operators across time. Consistently achieving world average ship turnaround times could save the economy an estimated \$600 million a year.
  - The World Bank's Container Port Performance Index ranked Australia's major container ports in the bottom 30% of global ports. Australia's cranes were just as productive as the average international crane. However, Australian ports used fewer cranes than an average international port to unload ships, causing the lower rankings.
- A **strategic fleet** may not significantly mitigate shipping capacity issues and concerns about training may be better resolved by other means.
  - Disruptions can occur to different types of shipping at different times. A strategic fleet would be unlikely to cover all of these disruptions with sufficient capacity.
  - The strategic fleet would likely face the same disruptions as other commercial shipping operations, such as congestion during the COVID-19 pandemic.
  - Capacity could be acquired as needed from the international market without the costs involved in supporting a strategic fleet. And the Australian Government could access international resources — including the charter market — in response to natural disasters and emergencies.
  - If shortages of seafarers arise they can be, and have been, addressed through targeted immigration and industry-led initiatives such as cadetships.

- **Privatisation processes in New South Wales** conferred protection on port lessees that are impeding economically efficient outcomes in the development of the state's ports system.
  - In November 2022, the **Port of Newcastle (Extinguishment of Liability) Act 2022** No 71 was passed. It allows for the anticompetitive provisions to be removed from the PoN Deeds, but only after the PoN has compensated the NSW Government because the price it paid for the port lease was lower than would otherwise have been the case as a result of the provisions in the Deeds.

### Other points from the report

- The Commission acknowledged issues with **industry specific regulation in workplace relations**.
  - On balance, the damaging effects of agreement content on the productivity of container terminals and the costs of industrial disputes to the rest of the supply chain mean an exception is justified.
- The Commission did not examine **multi-employer bargaining** in any detail. It is not clear if employees and their unions will pursue the option, nor how the FWC will limit multi-employer bargaining. If unions do pursue this option in container terminals, it will not be until 2025 when most EAs expire.
  - The potential benefits and drawbacks of multi-employer bargaining are discussed in the productivity review's report.
- To help make it more attractive for bargaining parties to approach **the Fair Work Commission**, the Commission has recommended that the FWC has members with requisite skills, experience and standing available to deal with cases in the ports (recommendation 9.8).



## **National School Reform Agreement Review – Senate Estimates**

### **Review background**

The Australian Government asked the Productivity Commission to:

- assess the effectiveness and appropriateness of the National Policy Initiatives
- assess the appropriateness of the Measurement Framework for Schooling
- include recommendations to inform the design of the next school reform agreement.

The final report was submitted to Government on 23 December 2022 and published on 20 January 2023.

The review was undertaken the context of ongoing collaboration and engagement between jurisdictions. Most significantly, on 15 December, Ministers agreed on a National Teacher Workplace Plan, which includes actions across five priority areas (teacher supply, initial teacher education, retention, elevating the profession, understanding future workforce needs).

### **Key points and focus of main findings and recommendations**

National Policy Initiatives are unlikely to have affected the education outcomes of Australian students - parties should fulfill their commitments to deliver outstanding initiatives (USI and OFAI).

The Measurement Framework for Schooling in Australia is not appropriate for measuring progress on National School Reform Agreement outcomes - while reliable and largely relevant, it is not a complete means of reporting progress.

Despite the above, the National School Reform Agreement (NSRA) is a sound platform for intergovernmental collaboration.

- The NSRA's objective (a high quality, high equity system) and its outcomes are enduring and should continue to shape the direction of reforms in the next agreement; however outcomes should be expanded to include wellbeing
- Firmer targets will strengthen the focus on achieving outcomes and improve accountability to the community. There should be targets for academic achievement for all students and for students from priority equity cohorts.

The design of the next agreement should reflect lessons learnt from the NSRA - greater flexibility in progressing reforms should be accompanied by increased accountability for and transparency of results.

Governments should advance reforms in the areas of equity (both in terms of supporting all students to achieve basic levels of literacy and numeracy and reducing differences in achievement across student cohorts), wellbeing and teachers and leaders.

Reforms should be progressed through a mix of national and bilateral actions. These include:

- *Joint national actions to:*

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- Realise the full potential of the USI by linking it with other data sets and permitting additional uses beyond the agreed initial baseline
- Establish a single portal for teachers and school leaders to access evidence-based instructional material
- Commission education bodies to improve the local evidence base on effective school leadership practices.
- *Bilateral agreement actions to:*
  - Reduce the proportion of students not meeting basic levels of literacy and numeracy (e.g. through small-group tuition)
  - Give effect to relevant commitments under the National Agreement on Closing the Gap and Australia's Disability Strategy
  - Set targets and outcomes for students in priority equity cohorts and outline the reforms that will help achieve them
  - Improve wellbeing, including through school wellbeing strategies
  - Ensure expert teachers can support colleagues to achieve better student outcomes through the dissemination of evidence based teaching practices
  - Maximise the value of teachers' and leaders' time, including by reducing low-value tasks.

The Commission also recommended that all jurisdictions:

- Re-introduce a one-year qualification for secondary teaching for well-qualified individuals in subject areas of high demand
- Participate in the development of the new national First Nations Teachers Strategy.

### Response

Coverage and responses to the final report have been largely supportive. Reporting has focussed on the Commission's findings and recommendations relating to student wellbeing and teacher workload, and assessment of student outcomes, particularly findings on the significant number of students not meeting meet NAPLAN minimum standards in reading or numeracy each year. This has regularly been reported in the context of growing funding for schools.

While the final report media release noted that Governments have boosted funding for schools and are implementing reforms to lift student outcomes, this was provided as contextual information. Funding was outside of the scope of the Commission's report.

### Subsequent developments

The following reports, released shortly after the final release of the NSRA review, are broadly aligned with the Commission's findings and recommendations:

- On 25 January the NSW Productivity Commission released a report on the effect of lengthening postgraduate teacher qualifications in NSW from one to two years, and recommended reintroducing the one-year graduate diploma option for teacher training.

- On 29 January the Grattan Institute released analysis of learning gaps for disadvantaged students, and recommended governments take steps to embed high-quality small-group tuition in schools.

**Next steps**

In December 2022 State and Territory Education Ministers agreed to establish a panel of eminent Australians (the Expert Panel) to inform the next National School Reform Agreement. Minister Clare has advised that the Expert Panel will build substantially on the Productivity Commission's report.

Terms of Reference for the Expert Panel are yet to be released.

To provide time for this work to occur, the current National School Reform Agreement will be extended for a further 12 months.



## Electric Vehicle indirect carbon prices — briefing note

### Background

The Commission's submission to the *National Electric Vehicle Strategy* consultation provided a specific application of the issues explored in the more broad-ranging climate policy section of the Productivity Inquiry. The Commission's EV policy submission provided to the Department of Climate Change Energy Environment, and Water (DCCEEW) on 31 October drew upon the climate policy chapter of Interim Report 4 of the Productivity Inquiry. An updated submission was provided to DCCEEW on 14 February, which incorporated estimates of the fiscal costs per tonne of greenhouse gas emissions abatement of the FBT exemption policy which has since come into force, and included some adjustments to the preliminary cost estimates of the State and Territory measures provided in the interim report.

### Main issues in the Productivity Inquiry and the EV submission

- One of the central observations of Interim Report 4 of the Productivity Inquiry is that **decisions not to implement an economy-wide emissions abatement mechanism do not avoid the pricing of emissions, they simply lead to indirect emissions pricing** that can be many times the cost of direct emissions pricing.
  - Once a country has committed to pursue a national emissions reduction target, and implemented policy measures to achieve that target, it will impose explicit or implicit carbon prices on the economy.
  - Failing to implement economy-wide emissions abatement policy has led to the implementation of a wide range of sectoral measures in Australia. These sectoral measures often come with indirect carbon prices many times higher than would be expected under an economy-wide scheme.
- **Policy measures designed to increase the demand for the uptake of electric vehicles (EVs) provides a case-in-point.** Existing demand-side measures are **amongst the most expensive emissions abatement policies in place today.**
  - These high estimates reflect a number of factors including their basic generosity relative to the emissions abatement available from EVs, even with a 100 per cent renewable energy assumption.
  - However, a key variable underlying their high cost is their likely limited additionality. Subsidies for EV uptake risk going to EVs that would have been purchased anyway. As a result, the emissions abatement generated by an EV purchased using these subsidies cannot be necessarily attributed to that subsidy.
- Given that the **principal barrier to EV uptake in Australia is supply, not demand**, policy measures aimed at **addressing supply side constraints will be more effective and efficient than demand-side measures.**
  - Reports of long waiting lists for EVs are commonplace in Australia. The Commission has pointed to increased fuel efficiency standards and liberalising the importation of second hand EVs as being potentially useful steps to address the supply side constraints that are currently the principal impediment to EV uptake in Australia.
- More generally, **the high cost of demand-side EV measures points to the policy merits of economy-wide emissions abatement settings** in Australia, such as **expanding the Safeguard Mechanism to cover** a broader range of sectors, including **the road transport sector**, a possibility explored through the Productivity Inquiry.

## Indirect carbon price estimates

- The EV submission provided to DCCEEW included preliminary estimates provided in Interim Report 4 of the Productivity Inquiry. These preliminary estimates have since been updated to include the FBT exemption for EVs leased through salary sacrifice arrangements, and to reflect a number of assumption changes. These changes include a longer life of EVs, an updated emissions intensity for new vehicles, a potentially more representative average number of kilometres travelled each year, and a slightly narrower additionality range (5 to 75 per cent, from 10 to 100 per cent previously). Estimates for ACT demand-side measures are excluded, given that details about a 1 July 2024 move to emissions-based registration are yet to be finalised.

### Indirect Carbon Price Estimates, selected demand-side policies

Level of Government	Policy	\$ per tonne of CO <sub>2</sub> -e <sup>a</sup>
<b>Commonwealth</b>	Exemption of EVs from fringe benefits tax.	\$987–20 084 <sup>b</sup> (\$905–13 580) <sup>c</sup>
<b>New South Wales</b>	\$3000 EV subsidy and stamp duty exemption	\$271–4914 <sup>b</sup> (\$222 – 3323) <sup>c</sup>
<b>Victoria</b>	\$3000 EV subsidy and registration discount	\$287–4807 <sup>b</sup> (\$217–3250) <sup>c</sup>
<b>Queensland</b>	\$3000 EV subsidy, stamp duty discount, registration discount	\$282–4933 <sup>b</sup> (\$222–3335) <sup>c</sup>
<b>Tasmania</b>	EV stamp duty exemption	\$134–2137 <sup>b</sup> (\$96–1445) <sup>c</sup>
<b>South Australia</b>	\$3000 EV subsidy and registration exemption for three years	\$209–3647 <sup>b</sup> (\$164–2466) <sup>c</sup>
<b>Northern Territory</b>	\$1500 Stamp Duty exemption, registration discount	\$112–2089 <sup>b</sup> (\$94 - 1412) <sup>c</sup>
<b>Western Australia</b>	\$3500 rebate	\$214–3739 <sup>b</sup> (\$169–2528) <sup>c</sup>

**a.** Estimates have been rounded to the nearest dollar. **b.** For simplicity, this estimate reflects fiscal costs per tonne of abatement, not the broader economic cost per tonne of abatement. The latter would also incorporate the impact of reduced taxation on the economy provided by tax concessions. **c.** Bracketed prices reflect incorporation of 100% renewable energy assumption, provided for sensitivity analysis. Given the opportunity cost of using renewable energy for EV charging, the unbracketed prices are arguably more relevant.

## Indirect carbon price estimate methodology

- The basic approach taken to estimating the indirect carbon price of EV demand-side measures was to compare the annual emissions generated by an internal combustion engine (ICE) vehicle (travelling an average number of kilometres with an average carbon intensity for new vehicles) to the annual emissions attributable to the grid electricity used by a EV travelling the same distance over an assumed 15 year life, taking the difference between the two as the expected abatement from each EV, and dividing the fiscal cost of subsidies for each EV by that estimated abatement.

- This fiscal cost of abatement is then adjusted by a range of additionality estimates (75 to 5 per cent), and a range of potential bring-forward dates (how many years in advance of 2035, when we assume that EVs will be the dominant vehicle type in new car sales). This bring-forward assumption is principally relevant to the assumed emissions intensity of the electricity grid over the life of the EV, reflecting the assumed decarbonisation of the electricity grid, in line with the projections of the AEMO Integrated System Plan (2022). The high end of the indirect carbon range reflects the low additionality/high bring-forward, end of the range, and vice versa.
- An alternative set of estimates (presented in brackets in the table) are also presented with a 100 per cent renewable energy assumption. However, this is only presented for sensitivity analysis. While some EVs may be charged with 100 per cent renewable energy, this will not universally be the case. Moreover, the use of renewable energy to charge EVs will preclude the use of that renewable energy for alternative purposes. This suggests that using the emissions intensity of the electricity grid emissions is most appropriate for estimating the indirect carbon price of demand-side EV measures.

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# 1 Vulnerable supply chains

The Commission responded to concerns about vulnerable supply chains by developing a framework for identifying vulnerable supply chains and a framework for determining whether government intervention is justified.

A distinguishing feature of the framework for identifying vulnerable supply chains is that it uses a data driven approach: it starts by casting a wide net to identify vulnerable product categories in the data. Then it identifies which of these *vulnerable* products are used to produce *essential* goods and services, and then relies on expert assessment to determine which products cannot be substituted in the production of an essential good or service (which we define to be *critical*). The data driven approach can be used to assess whether goods and services identified by industry experts are vulnerable. We expect that this data-with-experts approach will identify more goods and services as vulnerable, essential and critical than using the expert approach alone.

The Commission asserts that supply chain risks are best managed by those who have direct incentives and the information and capacity to mitigate against them. Like any firm, governments have the responsibility to manage risks in their own supply chains, where they deliver services directly (eg health care, water treatment).

There may be conditions where government intervention in private sector risk management is justified, such as where society's valuation of the supply of some good or service exceeds the private valuation. In matters of safety or national security, for example, a firm might decide to stop production, freeing resources to other potential uses, whereas society might value the maintenance of the activity.

If government were to intervene it should follow three steps.

1. Understand the problem. Governments need to identify the good or service that society cares about, including whether it is vulnerable, essential and critical.
2. Governments need to establish their role, and identify options for intervention. This includes understanding whether firms face impediments to managing risks and whether government is best placed to address those impediments. It is important to clearly identify and articulate the objectives of intervention (that is, what barrier is being addressed) and canvas widely for options that might achieve that objective.
3. Governments need to assess the costs and benefits of intervention against no government action. It is important to consider the market response during a disruption and whether government intervention will crowd out firms' investment in risk management. Governments could decide to intervene if the benefits of intervention outweigh the costs.



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## **Why didn't we identify adblue?**

In Australian trade statistics, adblue is included in the 8-digit HS Subheading described as Urea, a product aggregate. In 2016-17, the year analysed in our report, several countries supplied Australia with this product aggregate. Australia's main suppliers were Saudi Arabia and Qatar, each with market shares of around 20 per cent. Because no one country accounts for more than 80 per cent of Australia's annual supply, the product was not identified as vulnerable. The global market for this product also does not appear concentrated, many countries supply urea, none of which have a large market share.

Identifying adblue specifically would require much more detailed trade statistics – which were not available.

Global trade data are even more aggregated (6-digit), meaning that multiple products are grouped in with adblue, compounding the problem in identifying risks associated with supplier concentration.

Applying the principles for risk management and for intervention mentioned above, there is a case for industries to identify any inputs that might be critical to their production, to gain a clearer understanding of their supply chains and manage the risks along their supply chains.



On Saturday 7 January 2023, the Canberra Times published an article by Richard Denniss titled 'Australia's Productivity Problem'. The article was also published in a range of other publications.

The article presented several criticisms of the Productivity Commission in the context of reported plans to reform and/or restructure the Commission. Some of the criticisms were broad — for example the article stated that the Commission '... now sits impotently on the sidelines of the Australian policy debate' and that if the Commission was serious about reform, it would look at its past work and 'admit it made some big errors and missed some of our biggest problems completely.' The article also suggested that the Commission has not spoken out against 'boondoggles' and the danger to the economy of subsidising fossil fuels.

The article also criticised some particular pieces of work the Commission has undertaken.

For example, the article stated that the Commission 'chose to publish a major report diminishing the significance of rising income inequality in Australia' then released the youth incomes report 'which literally made no mention of unions or cuts to penalty rates'.

A couple of observations can be made on this point. The analysis in the youth incomes paper was broken into two periods — 2001-2008 (which showed strong rises in incomes) and 2008-2018 (which showed strong falls). It is worth noting that most significant decisions by the Fair Work Commission on penalty rates came very late in — or after — this time period. It is also worth noting that union rates declined both at the time incomes were rising and at the time they were falling. Indeed, it appears they fell more during the period when incomes were rising, so it's hard to posit this as the product of weakening union power. This is not to say that unions do not play an important role in the economy, just that there is no evidence to suggest a causal relationship between rates of unionisation and youth incomes — as asserted in the article.

The article also criticised our report on the Nuisance Costs of Tariffs. It stated that we cited the Henry Tax Review and our own work to note the efficiency of tariffs, yet we still indicated tariffs should be removed.

The article did not mention that the many gaps in tariffs mean that the tariff system is enormously complicated and therefore costly for businesses (and to a lesser extent, government). When the compliance costs are factored in, the net effects of Australia's existing tariff system are negative (and by a sufficiently large margin to justify change).

The article also critiqued the Commission for not paying attention to global issues such as the weaponisation of trade, international supply chain risks and manufacturing onshoring.

The Commission has not been unaware of the challenges posed by a new trade environment. For example, our annual Trade and Assistance Review examines such issues. And at the request of the Australian government, we undertook an analysis of vulnerable supply chains. We found some supply chains were vulnerable, and some were not — but importantly we brought an evidence-based and impartial lens to the issue.

On the point that the Commission has not examined 'boondoggles' and areas of significant government spending, there are a range of reports we can point to that have done just this. For example, the sometimes huge costs of poorly managed infrastructure projects by governments of all levels and complexions in Australia was highlighted in the Commission's report on public infrastructure. Equally, the Commission has considered some areas of expenditure in response to COVID-19 that may well have been undesirable. For example, we expressed concern about the need, efficiency and equity of the Homebuilder program.

We also examined fuel subsidies in a recent Trade and Assistance Review — where we found quite different estimates to the Australia Institute (the Review explains why these estimates are different).

A final point is that the article was highly selective in the publications it cited. Our recent self-initiated research topics — like rental stress, the benefits of the demand-driven university system and innovative approaches to manage chronic disease — are testament to the span of issues the Commission covers in its self-initiated work. And the Australian Government continues to task the Commission to look at an array of policy issues facing Australia — from designing a better mental health system, to looking at intellectual property in Aboriginal and Torres Strait Islander Arts and Crafts, to looking at homelessness policies in the context of the National Agreement on Housing and Homelessness (not to mention current commissioned projects on childcare and Closing the Gap).

We encourage people to look at our webpage to see the wide range of topics that the Commission looks at, and to see the perspectives and evidence that underpins them.



# Annual Report 2021-22

The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

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## The Productivity Commission

**The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.**

**The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.**

**Further information on the Productivity Commission can be obtained from the Commission's website ([www.pc.gov.au](http://www.pc.gov.au)).**

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17 September 2022

The Hon Dr Jim Chalmers MP  
Treasurer  
Parliament House  
CANBERRA ACT 2600

Dear Treasurer

I am pleased to present to you the Productivity Commission's Annual Report for 2021-22.

The Report has been prepared in accordance with section 10 of the *Productivity Commission Act 1998*. It has also been prepared in accordance with all obligations of the Public Governance, *Performance and Accountability Act 2013* (PGPA Act), including section 46, which requires that you present the report in Parliament.

The Report contains the Productivity Commission's annual performance statement and annual financial statements for the period 2021-22 as required by sections 39(1)(b) and 43(4) of the PGPA Act.

In accordance with the subsection 17AG(2)(b) of the Public Governance, Performance and Accountability Rule 2014 and the Commonwealth Fraud Control Framework 2017, I hereby certify that I am satisfied that the Commission has:

- prepared fraud risk assessments and fraud control plans
- in place appropriate fraud prevention, detection, investigation, reporting mechanisms that meet the specific needs of the Commission
- taken all reasonable measures to appropriately deal with fraud relating to the Commission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael Brennan'.

**Michael Brennan**  
Chair





---

## Foreword

In 2021-22, the Commission continued to provide evidence-based advice on a range of topics of significance to the Australian community.

We completed two inquiries during the year that were commissioned by the Australian Government. One inquiry examined the Right to Repair — the ability of consumers to have their products repaired at a competitive price using a repairer of their choice. The second inquiry assessed the effectiveness of the Register of Foreign-Owned Water Entitlements. We also completed a commissioned study into Vulnerable Supply Chains.

During the year we also released five self-initiated research papers: *Working from Home*, *Small Business Access to Finance*, *Wealth Transfers and their Economic Effects*, *Public Transport Pricing*, and *Australia's Prison Dilemma* (the factors that drive Australia's rates of imprisonment).

We continued to promote public understanding of matters relating to industry, industry development and productivity, including through our annual Trade and Assistance Review. We undertook our legislated role to investigate competitive neutrality complaints, with a report to government on the Australian Business Growth Fund, and progressed investigations into complaints received on NBN Co and Australia Post.

Our journey of changing the ways we engage and work with Aboriginal and Torres Strait Islander people and organisations continued. We progressed with our functions under the National Agreement on Closing the Gap. We published updates to the Dashboard that sets out up-to-date information on the targets and indicators in the Agreement and released the first Annual Data Compilation Report to inform reporting on progress under the Agreement. In April, the Commission commenced the first of its three-yearly reviews into progress on Closing the Gap.

The 2022 edition of the *Report on Government Services* was published during the year, providing comparative performance information on government service delivery areas.

The Australian Government referred eight commissioned inquiries and studies during the year. This included the Closing the Gap review, an inquiry into Australia's Maritime Logistics System and a study of Aboriginal and Torres Strait Islander Visual Arts and Crafts. The Government asked the Commission to undertake two projects arising from the final report of the Royal Commission into Aged Care Quality and Safety: an inquiry into a statutory entitlement to unpaid Carer's Leave, and a study of Aged Care Employment.

We were also tasked with two reviews of National Agreements: the Housing and Homelessness Agreement and the National School Reform Agreement.

The largest of the commissioned projects is the second five-yearly report into Australia's Productivity Performance, which commenced February 2022 and will be delivered to the Australian Government early in 2023.

I would like to thank the Commission's staff and my fellow Commissioners for their hard work over the course of the year.

**Michael Brennan**  
Chair



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## Commissioners



**Michael Brennan**  
Chair



**Alex Robson**  
Deputy Chair



**Julie Abramson**  
Commissioner



**Joanne Chong**  
Commissioner



**Catherine de Fontenay**  
Commissioner



**Lisa Gropp**  
Commissioner



**Stephen King**  
Commissioner



**Paul Lindwall**  
Commissioner



**Romlie Mokak**  
Commissioner



**Natalie Siegel-Brown**  
Commissioner



**Malcolm Roberts**  
Commissioner



**Martin Stokie**  
Commissioner



# About the Commission

## The Commission's role

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its remit covers all sectors of the economy, with a view to better informing policy making to raise national productivity and living standards.

The Productivity Commission's outcome objective is:

*Well-informed policy decision-making and public understanding on matters relating to Australia's productivity and living standards, based on independent and transparent analysis from a community-wide perspective.*

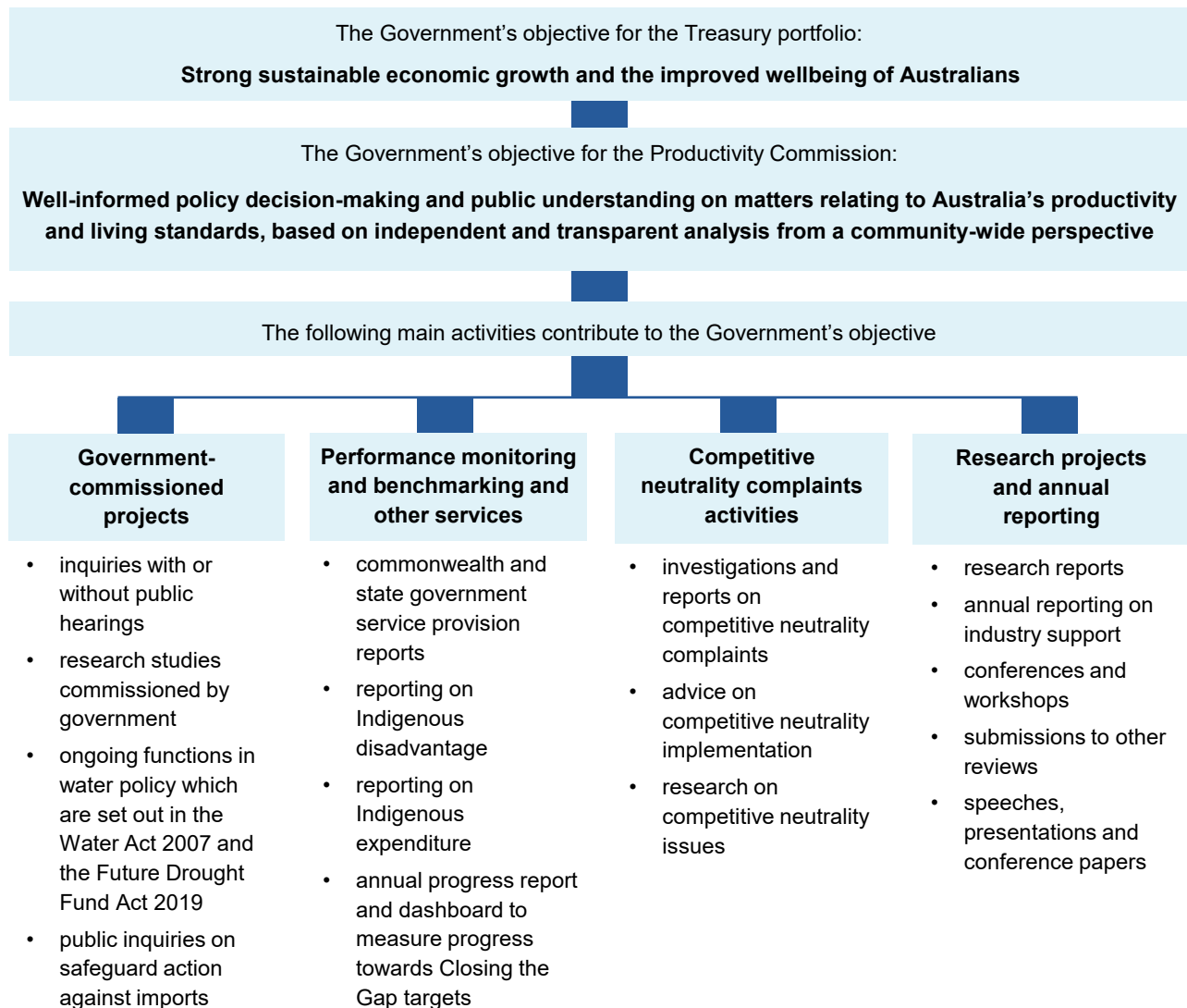
This objective is pursued in four broad work streams (outlined in figure 1):

- government-commissioned inquiries and studies
- other research projects and annual reporting on industry support
- performance reporting and related analysis of Commonwealth and State service provision
- competitive neutrality complaints.

The Commission's activities over 2021-22 are outlined in chapter 3.



Figure 1 – Main activities of the Productivity Commission



## Commissioners and staff

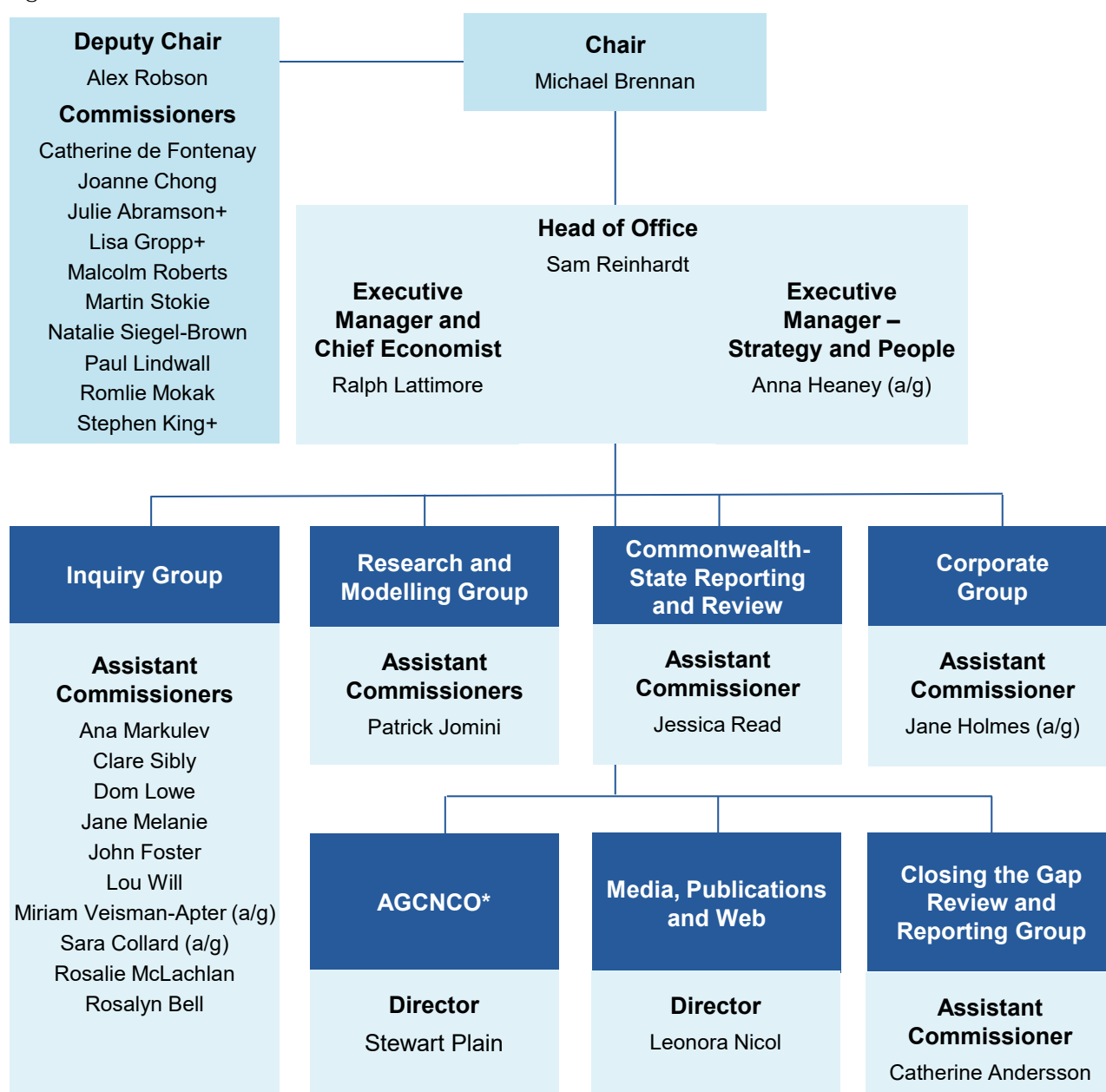
The Commission comprises its Chair and between four and twelve other Commissioners, appointed by the Governor-General for periods of up to five years. Associate Commissioners can be appointed by the Treasurer for terms of up to five years or for the duration of specific inquiries.

At 30 June 2022, there were twelve members of the Commission, including the Chair, with three Commissioners holding part-time appointments.

The work of the Commission is assisted by employees who are employed under the *Public Service Act 1999*. In 2021-22, the average staffing level was 164.

The Commission's structure and senior staff as at 30 June 2022 are shown in figure 2.

Figure 2 – Commission structure and senior staff



+ Part-time Commissioners

\* Australian Government Competitive Neutrality Complaints Office

As at 30 June 2022



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# Annual Performance Statement

## Introductory statement

This annual performance statement meets the Productivity Commission's requirements under s. 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (Cwlth) (PGPA Act) for the 2021-22 financial year, and accurately reflects the entity's performance in accordance with s. 39(2) of the PGPA Act.

## Entity purpose

The Commission's purpose, as embodied in the *Productivity Commission Act 1998* (Cwlth), is to provide governments and the Australian community with information and advice that better informs policy decisions to improve Australians' wellbeing. The Commission applies robust, transparent analysis, and adopts a community-wide perspective.

## Results

The Commission has assessed its performance against six criteria associated with its impact and delivery. In 2021-22, the Commission performed consistent with these criteria. The criteria, as set out in the Corporate Plan 2021-22 (p. 6) and Portfolio Budget Statement 2021-22 (p. 328), are:

- providing a valuable source of robust evidence-based analysis
- generating effective public debate
- being recognised as valuable by other governments
- engaging effectively with the community
- having open and transparent processes
- delivering timely reports.

Performance against each of the Commission's impact and delivery criteria is summarised below, with analysis presented in more detail in chapter 3.

A number of factors complicate the assessment of the Commission's performance. The Commission is only one contributor among many to the Australian policy debate and policy decision making; and the nature, scope and timing of projects commissioned by the Australian Government varies from one year to the next. Further, the Commission's inquiry and research outputs contribute over a period of years to the public debate and policy development on a range of complex and often contentious issues. Their impact can go far beyond their immediate release. This means that the Commission's contribution is best considered over the medium term.

Given the nature of its work, the Commission relies mainly on qualitative indicators of performance, with quantitative indicators helping to inform the assessment in some areas.

## Impact Criteria

The Productivity Commission is a valuable source of evidence-based analysis to inform public policy in Australia.

In 2021-22 the demand for the Commission to undertake work on complex policy issues has continued and increased significantly.

The Commission received references from the Government for eight new projects. The second five-yearly report into *Australia's Productivity Performance*, which commenced February 2022 will be delivered to the Australian Government early in 2023. Other new commissioned projects included an inquiry into *Australia's Maritime Logistics System* and a study of *Aboriginal and Torres Strait Islander Visual Arts and Crafts*. The Government asked the Commission to undertake two projects arising from the final report of the Royal Commission into Aged Care Quality and Safety: an inquiry into a statutory entitlement to unpaid *Carer's Leave*, and a study of *Aged Care Employment*. We were also tasked with two reviews of National Agreements: the *Housing and Homelessness Agreement* and the *National School Reform Agreement*.

In April 2022, the Commission commenced the first (three-yearly) review of progress under the National Agreement on Closing the Gap. The Commission also continued its work on the Closing the Gap Information Repository with the release of its first Annual Data Compilation Report in July 2021, and provided two further updates for the Dashboard in March and June 2022. The repository included baseline data on 17 socioeconomic outcome targets and more recent data on seven of the targets.

The Commission completed three government-commissioned inquiries and studies on a range of topics during 2021-22:

- a study to identify and examine disruptions to *Vulnerable Supply Chains*
- an inquiry into consumers' *Right to Repair* faulty goods and to access repair services at a competitive price
- an inquiry to examine the effectiveness, costs and benefits of the *Register of Foreign Ownership of Water Entitlements*.

The Commission's work has proved highly relevant to government policy deliberations. The work on *Vulnerable Supply Chains*, for example, was used, in combination with advice from other agencies, to inform the policy response to a range of supply chain issues. The Commission's quantitative methodology for identifying vulnerabilities, and its framework for considering appropriate policy responses, have been used by the new Office of Supply Chain Resilience. The Commission has presented at international fora to showcase the quantitative approach.

The Chair presented to the National Federation Reform Council (comprising First Ministers and Treasurers) in relation to productivity issues, along with other senior economic officials. This comes on the back of a number of interactions with the Council of Federal Financial Relations over the last three years.

In addition, the Commission continued its annual reporting of Australian Government assistance to industry through the Trade and Assistance Review and released five self-initiated research papers: *Working from Home*, *Small Business Access to Finance*, *Australia's Prison Dilemma*, *Wealth Transfers and their Economic Effects* and *Public Transport Pricing*. The Commission also continued to provide secretariat, research and report preparation services to the Steering Committee for the Review of Government Service Provision.

The Commission undertook its legislated role to investigate competitive neutrality complaints, with a report to government on the Australian Business Growth Fund, and progressed investigations into complaints received on NBN Co and Australia Post.

## The Productivity Commission generates effective public debate.

Contributions to parliamentary debate and the extent of media coverage indicate a high level of public interest in the Commission's work and its potential influence.

The five research projects undertaken during the year were selected for their relevance to current and future policy debates, and reflected the Commission's judgment as to where we could most contribute to and stimulate important community debate.

The project titled Australia's Prison Dilemma, for example, was the Commission's first foray into the criminal justice policy area. It combined quantitative analysis to discern the causes of Australia's rising imprisonment rate, a discussion of the policy trade-offs faced by governments and a number of case studies of promising diversionary interventions. Following publication of the report, the Commission hosted an online webinar involving experts from the law, social service delivery and the criminal justice research community. This exposed us to a new set of issues and interested parties and brought a slightly different voice to the debate in this important policy area.

The Commission's work on Small Business Access to Finance provided insights to policy officers designing the Government's programs to encourage new forms of business lending. The Commission also presented the work to senior finance industry leaders.

The Commission's research on Working from Home was the subject of an online panel involving academics and business representatives. The findings of the report were presented to property industry leaders and were the subject of a significant number of public engagements by the Chair and other staff. In addition to the written report, a formal model of working from home was developed and presented at two conferences.

Our work on inter-generational wealth transfers provided new quantitative analysis, based on HILDA data, to focus attention on an emerging issue: the scale of inheritance that could come with an ageing population and rising asset values; and the impact of wealth transfers on inequality. These findings have been presented at conferences of academics and policy professionals.

The Commission's work on public transport pricing was informed by close engagement with State and Territory transport departments who had a strong interest in the project's findings, particularly in light of the dramatic reduction in public transport patronage in the course of the COVID pandemic.

During 2021-22, about 153 federal members and senators referred to at least 42 different Commission reports or inquiries, or to the Commission's role in the policy process. At the state and territory level, about 121 members of state and territory parliaments referred to 39 different Commission projects or to the Commission's role during the 2021-22 sittings.

The Commission rated, on average, 150 media mentions a month in connection with the five self-initiated research reports that were completed during 2021-22. The report *Working from Home* was released in 2021-22 and was the most frequently mentioned Commission publication, with an average of more than 90 media mentions each month. The *2022 Report on Government Services* also generated a substantial amount of public interest during the year, reflected in media articles and downloads of the report.

Commission reports from previous years also appeared in media reporting and were cited in academic literature during 2021-22, including the inquiry reports *Caring for Older Australians* (2011), *Natural Disaster Funding* (2014) and *Mental Health* (2020).

The Commission's previous work on Expenditure on Children and Family Services in the Northern Territory continues to have influence, with the Commission having ongoing discussions with representatives from the

Northern Territory Government and the Commonwealth to support their efforts towards a Joint Funding Framework as recommended by the report.

In 2021-22, Commissioners and staff made a number of speeches and presentations. The topics of speeches included Australia's productivity challenge, vulnerable supply chains, the economic implications of the digital economy, and vocational education and training. The Commission's past work in health – in reports such as *Shifting the Dial*, *Mental Health* and *Innovations in Chronic Care* – continue to generate ongoing interest and have been the subject of a number of speeches and conference presentations.

The Productivity Commission is recognised as a model for evidence-based policy analysis worthy of consideration by other governments.

The Commission engaged and exchanged research ideas with officials from Denmark, Japan, Malta, Pakistan and the United Kingdom. The Commission's institutional arrangements are of continuing interest among overseas organisations along with recent research on global supply chains. The Commission held its second online forum with Japan's Policy Research Institute, sharing labour market challenges in the respective countries. The Commission also participated in meetings and forums with the Organisation for Economic Cooperation and Development (OECD).

Outside of its inquiry program, the Commission held or attended 10 meetings with international organisations during 2021-22. Topics of discussion included the Commission's role and activities, global supply chains, remote work, productivity, mining regulation and labour market challenges. The Commission also participated in meetings with members of the Asian Bureau of Economic Research — a research program based at the Australian National University which contributes to informing policy thinking and decision making across the Asian region.

International organisations including the OECD, the International Monetary Fund and the World Bank cited the Commission's work in reports published throughout the year. This included references to the *Mental Health*, *Superannuation* and *Data Availability and Use* reports.

## Delivery Criteria

The Productivity Commission engages effectively with the community.

In 2021-22, the Commission's processes provided opportunities for extensive public input and feedback through visits, hearings, workshops and other consultative forums, and the release of draft reports and preliminary findings.

For all major projects commenced during 2021-22, the Commission published issues papers — outlining relevant issues and calling for public submissions — shortly after receiving the terms of reference. And interested parties had another opportunity to make submissions following the release of draft or interim reports.

In total, the Commission received 467 submissions to government-commissioned projects during 2021-22. The Commission also received 'brief comments' on all government-commissioned projects during 2021-22, providing an opportunity for a more informal avenue for feedback. The *Housing and Homelessness Agreement Review* inquiry received the highest volume of submissions and comments.

For all inquiries and studies, there was also an opportunity for participants to appear at public hearings, roundtable discussions and/or workshops during 2021-22. The Commission also held over 570 meetings with stakeholders for commissioned inquiries.



The Commission continues to look at ways to improve its engagement with Aboriginal and Torres Strait Islander people and organisations. An engagement approach has been developed to guide how the Commission will communicate with Aboriginal and Torres Strait Islander people in undertaking its review of the National Agreement on Closing the Gap. Extensive engagement has taken place as part of the Commission's study into *Aboriginal and Torres Strait Islander Visual Arts and Crafts*, with a deliberate focus on demonstrating reciprocity and two-way exchange with Aboriginal and Torres Strait Islander people.

### **The Productivity Commission's processes are open and transparent.**

The Commission operates under the powers, protection and guidance of its own legislation. Its independence is formally exercised under the *Productivity Commission Act 1998* (Cwlth) through the Chair and Commissioners, who are appointed by the Governor-General for fixed periods.

The Commission has its own budgetary allocation and a small permanent staff, operating at arm's length from other government agencies. While the Government initiates the Commission's inquiries and studies, the Commission's findings and recommendations are based on its own analysis and judgment.

The Commission has its own budgetary allocation and a small permanent staff, operating at arm's length with independence from other government agencies. While the Government initiates the Commission's inquiries and studies, the Commission's findings and recommendations are based on its own analysis and judgment.

The Commission's objectivity and independence are key strengths of its work. The Commission's advice to Government, and the information and analysis on which it is based, continued to be open to public scrutiny in 2021-22. As noted above, the Commission's processes provided for public input and feedback through hearings, workshops and other consultative forums, and through the release of draft or interim reports. Where substantial quantitative work is undertaken, the Commission engages with relevant government departments or academics to enable the peer review of its work. Underlying models and data used in its work, for example from the research work on *Working from Home* and *Wealth Transfers and their Economic Effects*, are published on the Commission's website.

### **The Productivity Commission delivers reports within agreed timeframes.**

All of the major projects that were completed in 2021-22 were finished within the timeframes originally established by the Government.

The timing of tabling of commissioned inquiry reports, following completion of a project, is a matter for Government. For other work, including commissioned studies, the Commission releases its reports as soon as practical after completion of the project.



# The year in review: Commission activities

## Public inquiries and commissioned studies

The Commission commenced eight new projects at the request of the Australian Government in 2021-22, compared to three projects commenced in 2020-21.

- In August 2021, the Commission received a reference to undertake a study into the nature and structure of the markets for *Aboriginal and Torres Strait Islander Visual Arts and Crafts* and policies to address deficiencies in these markets
- In December 2021, the Commission received a reference to undertake a review into the *National Housing and Homelessness Agreement*.
- In December 2021, the Commission received a reference for an inquiry into the long-term productivity of *Australia's Maritime Logistics System*.
- In February 2022 the Commission received the reference to undertake the second five-yearly review of *Australia's Productivity Performance*.
- In February 2022 the Commission received references for two projects arising from the final report of the Royal Commission into Aged Care Quality and Safety: an inquiry into a statutory entitlement to unpaid *Carer's Leave*, and a study of *Aged Care Employment*
- In April 2022 the Commission commenced the first (three-yearly) review of progress under the National Agreement on *Closing the Gap*.
- In April 2022 the Commission received a reference to undertake a review of the *National School Reform Agreement*.

The Commission completed three inquiries or studies in 2021-22, compared with five in 2020-21.

- A study to identify and examine disruption to *Vulnerable Supply Chains*.
- An inquiry into consumers' *Right to Repair* faulty goods and to access repair services at a competitive price.
- An inquiry to examine the effectiveness, costs and benefits of the *Register of Foreign Ownership of Water Entitlements*.

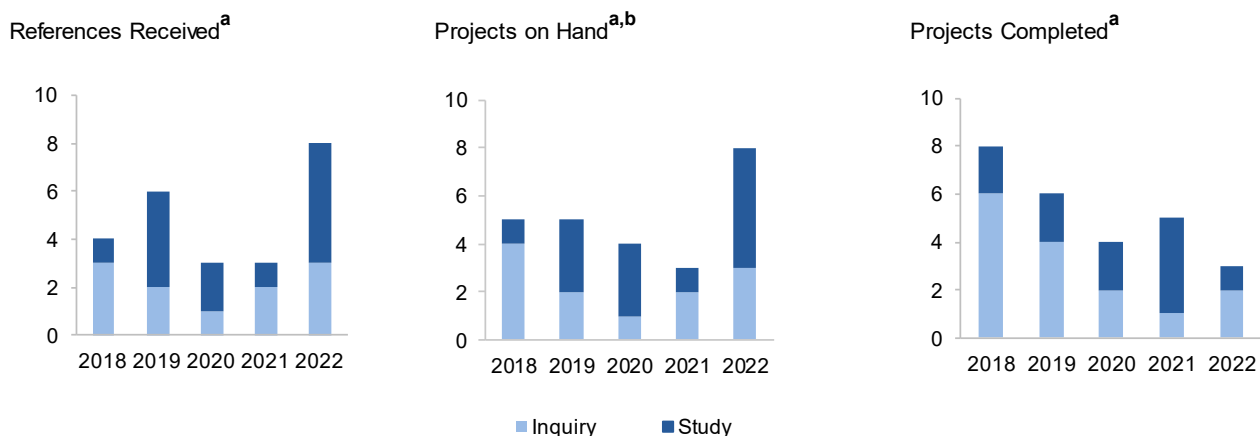
This meant there were three inquiries and five studies underway at some point during 2021-22 (figure 3). In addition, the Commission undertook and completed research projects on *Working from Home*, *Small Business Access to Finance*, *Australia's Prison Dilemma*, *Wealth Transfers and their Economic Effects*, *Public Transport Pricing* and *The Nuisance Cost of Tariffs*.

Figure 3 – Program of public inquiries and other government-commissioned projects<sup>a</sup>

	2020-21					2021-22					2022-23													
Month	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
<b>Public Inquiries</b>																								
National Water Reform 2020																								
Right to Repair																								
Register of Foreign Ownership of Water Entitlements																								
Australia's Maritime Logistics System																								
Productivity Inquiry																								
Carer's Leave																								
<b>Commissioned Research Studies</b>																								
Vulnerable Supply Chains																								
Aboriginal and Torres Strait Islander Visual Arts and Crafts																								
Housing and Homelessness Agreement Review																								
Aged Care Employment																								
National School Reform Agreement																								
National Agreement on Closing the Gap Review																								

a. Shaded areas indicates the approximate duration of the project in the period covered by the figure, as at 30 June 2022

Trends in public inquiry activity and participation over the past five years are shown in figure 4 and table 1. Further information on public inquiries and commissioned studies undertaken during 2021-22 is available on the Commission's website.

Figure 4 – Projects commenced, on hand and completed<sup>a,b</sup>

a. Figures are for financial years. b. As at 30 June 2022.

Table 1 – Public inquiry and other commissioned project activity, 2017-18 to 2021-22<sup>a,b,c</sup>

	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
<b>Public inquiries</b>						
Inquiry references received	6	3	2	1	2	3
Issues papers released <sup>a</sup>	5	5	3	1	2	3
Public hearings (sitting days) <sup>b</sup>	20	23	23	17	2	3
Organisations/people visited	626	519	395	160	219	570
Submissions received	1,302	610	1,499	762	0	241
Draft reports <sup>c</sup>	7	4	3	2	2	1
Inquiry reports completed	6	6	4	2	1	2
Inquiries on hand (30 June)	7	4	2	1	2	3
<b>Research studies</b>						
References received	2	1	4	2	1	5
Issues papers released <sup>a</sup>	2	0	4	2	0	5
Submissions received	544	210	166	398	0	226
Draft reports	4	0	0	5	1	0
Research reports completed	3	2	2	2	4	1
Studies on hand (30 June)	2	1	3	3	0	5
<b>Total references</b>						
Total references received	8	4	6	3	3	8
Total references completed	9	8	6	4	5	3
Total references on hand (30 June)	9	5	5	4	3	8

a. Includes issues papers or equivalents, such as discussion papers and guidance notes. b. Excludes forums and roundtable discussions. c. Includes all types of draft reports.

## Performance reporting and other services

The Commission provides secretariat services to the Steering Committee for the Review of Government Service Provision, and has done so since the Review's commencement in 1993. The Steering Committee's major outputs are a collaborative effort, with more than 80 Commonwealth, State and Territory government agencies contributing to: the Report on Government Services and the Closing the Gap Information Repository.

### Report on Government Services

The *Report on Government Services 2022* was the twenty-seventh in this series. The Report provides comparative performance information on 17 government service delivery areas that contribute to the wellbeing of Australians — spanning child care, education and training, health, justice, community services, emergency management, housing and homelessness. The services covered in the 2022 Report collectively account for approximately \$301 billion of government recurrent expenditure, equivalent to about 15 per cent of GDP.

As part of the continued development of the Report, a staged transition to interactive online reporting continued in 2021-22 with the transition of Community services (Part F), including Aged care services, Services for people with disability, Child protection services, and Youth justice Services.

## Reporting specific to Aboriginal and Torres Strait Islander people

The National Agreement on Closing the Gap is an agreement between the Coalition of Aboriginal and Torres Strait Islander Peak Organisations and all Australian governments. The objective of the Agreement is to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people, so that their life outcomes are equal to all Australians.

Under the Agreement the Productivity Commission is responsible for maintaining an information repository to inform reporting on progress in Closing the Gap. The ongoing reporting functions include:

- a 'dashboard' that provides the most up-to-date information available on the targets and indicators in the Agreement
- an *Annual Data Compilation Report* that provides a point-in-time snapshot of the Dashboard material.

The first *Annual Data Compilation Report* was published in July 2021.

## National Agreement reporting

The Commission supports the provision of information to assess performance against the four National Agreements agreed by Australian governments under the Intergovernmental Agreement on Federal Financial Relations (covering health, skills and workforce development and disability services). During 2021-22, the Steering Committee incorporated applicable indicators and data from these Agreements in its *Report on Government Services*.

The National Agreement on Closing the Gap was signed in July 2020, replacing the National Indigenous Reform Agreement. The Commission has two roles under the new Agreement – monitoring progress under the Agreement with a Dashboard and *Annual Data Compilation Report* underpinned by an Information Repository, and undertaking three-yearly reviews of progress.

In April 2022, the Commission commenced the first (three-yearly) review of progress under the National Agreement on Closing the Gap. The Commission continued its work on the Closing the Gap Information Repository with the release of its first *Annual Data Compilation Report* in July 2021, and two further updates for the Dashboard in March and June 2022.

## Performance reporting dashboard

The Commission maintains the Performance Reporting Dashboard, which provides a single, streamlined source of information on progress towards key commitments agreed by Australian Governments. In 2021-22, the Commission published its fifth update of the Dashboard.

## Competitive neutrality activities

Competitive neutrality policy seeks to ensure that government businesses do not have advantages (or disadvantages) relative to their competitors, simply by virtue of their public ownership.

The Australian Government Competitive Neutrality Complaints Office (AGCNCO) operates as a separate unit within the Commission. Its function is to receive and investigate complaints and provide advice to the Treasurer on the application of competitive neutrality arrangements.

The AGCNCO also provides informal advice to individuals and private organisations on the application of competitive neutrality to government activities, and to government agencies on implementing their competitive neutrality obligations.

During 2021-22, the AGCNCO completed its investigation into the Australian Business Growth Fund investigation (December 2021), progressed its investigation into a complaint against NBN Co, and commenced an investigation into a complaint against Australia Post. At the end of 2021-22 the AGCNCO had two active complaint investigations in train (NBN Co and Australia Post).

The AGCNCO received 15 queries about competitive neutrality matters from various parties. Of these, only one constituted a complaint that fell within the jurisdiction of the AGCNCO and related to a significant government business activity subject to the Australian Government's competitive neutrality policy. That query resulted in the formal competitive neutrality complaint being lodged against Australia Post, which the AGCNCO is investigating.

Of the remaining queries received, seven were from parties seeking to understand competitive neutrality policy and the complaints process, and how the policy might be applied to government activities. Two queries were received from the media seeking information about the NBN Co complaint investigation. Two queries were from IPART and NSW Treasury officers seeking information that could assist them in their review of the NSW Government's competitive neutrality policy and complaint handling arrangements. These resulted in extensive discussions between those parties and the AGCNCO. One query was from an academic inviting comment on the lessons Australia's competitive neutrality policy framework might have for the OECD.

## Other research activities and annual reporting

The Commission is permitted under its Act to undertake research to complement its other activities. This research supports its role in promoting public understanding of the trade-offs involved in different policy approaches, and how productivity and the living standards of Australians can be enhanced. It also reports annually on the effects of assistance and regulation.

The Commission's research program is guided by government statements on policy priorities, including potential commissioned work; parliamentary debate and committee work; and informal and formal consultations with Australian Government departments, business, community and environmental groups, union bodies and academics.

During 2021-22, the Commission released five research papers and commenced a research project on *The Nuisance Cost of Tariffs*.





# The policy and wider impact of Commission activities

## Assessing the Commission's performance

The Commission assesses its overall performance against the following outcome objective:

Well-informed policy decision making and public understanding on matters relating to Australia's productivity and living standards, based on independent and transparent analysis from a community-wide perspective.

Assessment of the Commission's performance can be complicated by it being one contributor among many to any policy outcome. As such, the Commission's contribution is best considered over the medium term. Even when its specific recommendations are not supported by government, the Commission can play a significant role in helping governments, parliaments and the community understand the trade-offs involved with different policy choices, and in providing data that is a source of reference for policy makers.

The Commission monitors reaction to its work in order to improve its performance and its contribution to public understanding and policy making. Those with an interest in the Commission's reports and users of the Commission's website have the opportunity to provide feedback.

## Generating effective debate

The Commission obtains an indicator of its success in generating effective public debate by considering the degree of acceptance of recommendations, the quantity of report downloads, and the number of mentions in the media and parliaments.

Internal analysis across the three projects completed in 2021-22 indicates that the Vulnerable Supply Chains study and the *Right to Repair* inquiry both generated a medium level of debate, while there was a lower level of debate on the inquiry into the *Register of Foreign Ownership of Water Entitlements*.

The Australian Government did not release formal responses to any commissioned inquiry reports or research studies in 2021-22.

Commission inquiry and research reports were frequently cited by parliamentarians in debates and questions during 2021-22. In the Federal Parliament, about 153 members and senators referred to at least 42 different Commission reports or inquiries, or to the Commission's role in policy processes. In addition, there were at least 193 mentions of 45 different Commission inquiries and its work in the Hansard proceedings of Federal Parliamentary Committees in 2021-22. The most frequent mentions were Mental Health, Veterans and Childcare.

The Commission's inquiry and research reports were also used extensively in debate and questions by state and territory parliamentarians. During the 2021-22 sittings of the eight state and territory parliaments, 121 members referred to about 39 different Commission publications or inquiries (including the *Report on Government Services*), or to the Commission's role in policy processes. In about 69 per cent of the 198 total mentions the Commission was cited as an authoritative source, while two mentions were critical of a particular

finding, report or Commission attribute. The *Report on Government Services* was mentioned most frequently, while the Commission's *Mental Health* report also featured prominently.

Another indicator of the Commission's success in generating effective public debate is the traffic to the Commission's website and the number of downloads of Commission reports.

In 2021-22, the Commission's website received a high level of traffic from external users. The projects of most interest were the Working From Home report (around 7,000 downloads), the *Mental Health* inquiry report (around 6,000 downloads) and the *Australia's Prison Dilemma* report (around 3,000 downloads). The *2022 Report on Government Services* was also highly sought after by website users — as in previous years — with a large number of report downloads (about 15,000).

In 2021-22, the Closing the Gap Information Repository website received 56,811 page visits of which 37,788 page visits were to the dashboard. The Annual Data Compilation Report released in July 2021, was downloaded 777 times and the report was viewed online 2,506 times.

During 2021-22, there were an average of 60 media mentions each month for the three inquiries and studies that were completed during the year. More broadly, there were at least 2,000 media mentions of the Productivity Commission each month, which includes discussion of the Commission's previous reports and its role in the policy process. The *Working from Home* research study received the highest number of media mentions of the reports published in 2021-22, while the *Consumers' Right to Repair* and the *Report on Government Services* also received significant media interest during the year.

Invitations to give briefings and present papers to conferences and to parliamentary, business and community groups are another indicator of the Commission's role in generating public debate. In total, there were 53 presentations by the Chair, Commissioners and staff during the year. Common topics included Australia's productivity challenge, vulnerable supply chains, the economic implications of the digital economy, mental health and vocational education and training.

International recognition of the Commission as a model for evidence-based policy is also an indicator of the Commission's impact. The Commission engaged and exchanged research ideas with officials from Denmark, Japan, Malta, Pakistan and the United Kingdom. The Commission's institutional arrangements are of continuing interest among these organisations along with recent research on global supply chains. The Commission held its second online forum with Japan's Policy Research Institute, sharing labour market challenges in the respective countries. The Commission also participated in meetings and forums with the Organisation for Economic Cooperation and Development (OECD).

Outside of its inquiry program, the Commission held or attended 10 meetings with international organisations during 2021-22. Topics of discussion included the Commission's role and activities, global supply chains, remote work, productivity, mining regulation and labour market challenges. The Commission also participated in meetings with members of the Asian Bureau of Economic Research — a research program based at the Australian National University which contributes to informing policy thinking and decision-making across the Asian region.

The OECD cited the Commission's work on superannuation, the digital economy, data availability and use and the impacts of competition policy. The International Monetary Fund cited the Commission's work on mental health, foreign investment and services-sector productivity.

The Commission also continued to be well cited in academic literature during the year. In 2021-22, new academic literature referred to a number of reports, such as the Commission's *Mental Health* inquiry, along with older reports, such as the 1999 report into *Australia's Gambling Industries* and the 2011 *Caring for Older*

*Australians* report. This demonstrates that the Commission's role as a source of evidence-based policy advice can continue long after the release of a report.

## Transparency and community engagement

A central feature of the Commission's processes is the opportunity for people to participate in and scrutinise its work. Engaging with the community through open and transparent processes ensures that the Commission's research and policy advice is informed by those who are interested in, and affected by, that advice, and that the analysis is tested publicly.

The Commission conducts public hearings, calls for submissions that are made publicly available, and publishes draft and final reports. Roundtables, workshops and other forums provide valuable opportunities for the Commission to access wider sources of expertise in its inquiries and research.

The Commission provided a range of opportunities for public participation in each of the inquiries and studies completed in 2021-22, including public hearings, roundtables, workshops and the release of papers for public comment. For all of inquiries and studies completed in 2021-22, the Commission released an issues paper, issued a draft report and held two rounds of submissions to allow written participation from interested parties.

In response to the COVID-19 pandemic over the past two years, we have provided flexibility and have regularly reviewed and refined processes and submission timeframes, to ensure participants have adequate opportunities to engage with the Commission. Such adjustments reflect significant process improvements, including enhanced videoconferencing technology, and will remain beyond the pandemic.

During its 2021-22 inquiry activities, the Commission met with more than 265 individuals, organisations or groups and received 241 submissions. Due to the timeframes of the commissioned inquiries the Commission held only three days of public hearings in 2021-22 (for the *Right to Repair* inquiry). And for studies, the Commission received a total of 226 submissions during the year.

In addition to accepting submissions, for each of the commissioned inquiries and research studies the Commission provided opportunities for 'brief comments', a more informal avenue for feedback compared to submissions. The number of brief comments received varied between projects. For example, the study into the *National School Reform Agreement* received 103 comments, while many other inquiries and studies received less than 10.

## Timeliness and cost effectiveness

In 2021-22, all of the Commission's inquiry and study reports, as well as all reports produced as part of the Commission's performance reporting and other functions, were completed within the timeframes originally established by Government, or as subsequently varied.

The timing of tabling of commissioned inquiry reports following completion of a project is a matter for Government.

The Commission endeavours to conduct projects efficiently, while ensuring rigorous analysis and maximising the opportunity for participation. Total estimated costs (covering salaries, direct administrative expenses and an allocation for corporate overheads) for inquiries and commissioned research studies completed in 2021-22 are shown in table 2.

In most years the major administrative (non salary) costs associated with public inquiries and other Government commissioned projects relate to the Commission's extensive consultation processes and the

wide dissemination of its draft and final reports. A reduction in travel associated with the COVID-19 pandemic led to savings in some of these costs for projects completed in 2021-22.

Table 2 – Cost of public inquiries and other government commissioned projects completed in 2021-22<sup>a</sup>

<i>Government-commissioned project</i>	<i>Total cost<sup>a</sup> (\$'000)</i>
Vulnerable Supply Chains	297
Indigenous Reporting (OID)	2,107
Right to Repair	1,597
Register of Foreign-owned Water Entitlements	388
Trade and Assistance Review	387

a. Includes estimated overheads and staffing

## Commission capabilities, linkages and networks

The Commission seeks to maintain a capability that provides rigorous analysis, transparent processes, and independence and balance in its conclusions. Particular attention is paid to the quality of recruitment, in-house and external training, and diversity of work experiences.

There is an active seminar program involving external experts on a range of policy issues relevant to the Commission's work. These seminars are intended to bring new ideas and stimulate debate within the Commission, as well as to foster networks with academic and other experts of relevance to the Commission's work. For 2021-22 the Commission hosted 23 seminars. Six of these were Commission teams presenting to internal staff and 17 involved an external researcher presenting to the Commission. Overall the Commission hosted seminars on topics such as aged care provision, government practice, housing demand, innovation, the pandemic, economic modelling, retirement incomes and migration.

The Commission has linkages, domestically and internationally, to research and other organisations through the involvement of Commissioners and staff in research alliances and participation in working groups and forums.

In 2021-22, a number of Commissioners were also members of various boards, committees and non-profit organisations, including the Australian Institute of Health and Welfare, Canberra Symphony Orchestra, Economic Society of Australia, the Governing Council of the Photography Studies College, and Energy Security Board - Post-2025 Advisory Group.

# Management and accountability

## Commissioners and staff

The Commission operates under the powers, protection and guidance of its own legislation. Its independence is formally exercised under the *Productivity Commission Act 1998* through the Chair and Commissioners.

### Commissioners

At 30 June 2022, there were twelve members of the Commission, including the Chair. Three Commissioners held part-time appointments.

Following the end of the term of his initial five-year appointment, Dr Stephen King was re-appointed as a part-time Commissioner from 1 January 2022 to 31 December 2026.

Jonathan Coppel, who commenced as a Commissioner in 2011, completed his second term in July 2021. Jane Doolan also completed her term in December 2021 after five years as a Commissioner.

Professor Alex Robson was appointed as Deputy Chair on 28 March 2022 for a period of five years.

Joanne Chong was appointed as a Commissioner on 1 April 2022 for a period of five years.

Martin Stokie was appointed as a Commissioner on 1 April 2022 for a period of five years.

Natalie Siegel-Brown was appointed as a Commissioner on 18 April 2022 for a period of five years.

Biographical information on all Commissioners is available on the Commission's website and their terms of appointment are listed in table 3.

Table 3 – Chair and Commissioners, 30 June 2022

	<i>Location</i>	<i>Period of appointment</i>	
		<i>From</i>	<i>To</i>
Mr M Brennan (Chair)	Canberra	11 Sep 2018	10 Sep 2023
Prof. A Robson (Deputy Chair)	Brisbane	28 March 2022	27 March 2027
Ms J Abramson (p/t)	Melbourne	10 Dec 2015	9 Dec 2025
Dr C de Fontenay	Melbourne	1 Jul 2019	30 Jun 2024
Ms L Gropp (p/t)	Melbourne	1 May 2019	30 Apr 2024
Dr S King (p/t)	Melbourne	1 July 2016	31 Dec 2026
Mr P Lindwall	Canberra	1 Jan 2015	30 Apr 2024
Mr R Mokak	Canberra	25 Mar 2019	24 Mar 2024
Dr M Roberts	Canberra	1 May 2019	30 Apr 2024
Ms J Chong	Adelaide	1 April 2022	31 March 2027
Ms N Siegel-Brown	Brisbane	18 April 2022	17 April 2027
Mr M Stokie	Melbourne	1 April 2022	31 March 2027

(p/t) denotes part time.

## Associate Commissioner

The Commission did not have any Associate Commissioners at 30 June 2022.

## Staff

The average staffing level during 2021-22 was 164, compared with 169 in 2020-21. The Commission recruited 66 staff during the year, including eight graduates – seven through its graduate economist recruitment program, and one through the APS HR Professional Stream. Staff turnover was approximately 21 per cent.

Statistical information on staffing is provided in the Appendix.

## Outcome, objective and resources

The financial and staffing resources devoted to achieving the Government's outcome objective for the Commission are summarised in table 4. An agency resource statement for 2021-22 is included in the Appendix.

Table 4 – Financial and staffing resources summary<sup>a,b</sup>

	Budget <sup>a</sup> 2021-22	Actual 2021-22	Variation
	\$'000	\$'000	\$'000
<b>Outcome 1: Well-informed policy decision-making and public understanding on matters relating to Australia's productivity and living standards, based on independent and transparent analysis from a community-wide perspective</b>			
Program 1.1 Productivity Commission			
Departmental expenses			
Ordinary annual services (Appropriation Bill No. 1)	34,853	28,996	5,857
Revenues from independent sources (Section 74)	10	293	(283)
Expenses not requiring appropriation in the Budget year	3,229	3,213	16
<b>Total for Outcome 1</b>	<b>38,092</b>	<b>32,502</b>	<b>5,590</b>
	2020-21	2021-22	
Average staffing level (number)	191	164	27

a. Full year budget, including any subsequent adjustment made to the 2021-22 Budget.

## Governance

The Commission's governance arrangements are designed to achieve efficient, effective and ethical use of resources in delivering the Commission's mandated outcome objective. The arrangements are also designed to ensure compliance with legislative and other external requirements in regard to administrative and financial management practices.

In keeping with good governance principles, the Commission's governance arrangements encompass:

- establishing clear responsibilities for decision making and the undertaking of mandated activities
- ensuring accountability through the monitoring of progress, and compliance with legislative and other requirements, of mandated activities
- underpinning these arrangements through the promotion of a risk management and ethical behaviour culture.



## Key responsibilities

The Commission's Chair is responsible for the overall management and governance of the Commission, its reputation and public handling of issues, and the quality of its output. The Chair is the 'Accountable Authority' under the PGPA Act.

The Chair is assisted in these tasks by the Head of Office and a Management Committee that addresses matters of strategic direction, organisational development, policies and practices, monitoring of performance and resource allocation.

Management Committee comprises the Chair (as chair), the Head of Office, the Executive Managers of the Melbourne and Canberra offices, and the Assistant Commissioner responsible for Corporate Group. It meets monthly, or more frequently as needed.

The Research Committee oversees the Commission's self-initiated research program to ensure delivery of high quality, policy relevant research in a timely way. It also oversees data analysis, and modelling capability and development to promote fit-for-purpose model use that is quality assured. It meets monthly and comprises the Chair (as chair), two Commissioners, the Head of Office, the Executive Managers, the Assistant Commissioner for Research and Modelling, Media and Publications staff, and a liaison officer.

Commissioners are responsible for the conduct and quality of the individual inquiries, studies or other activities to which they are assigned by the Chair, and the overall quality of Commission work via their contributions to monthly Commission meetings.

## Accountability

Management Committee's monitoring of the Commission is aided through the provision of regular reports covering staffing, expenditure, staff development and other operational matters.

Monthly Commission meetings — also attended by senior staff — are used to discuss and monitor progress across the Commission's four mandated outputs. Specifically:

- the responsible Commissioners on government commissioned projects report at each Commission meeting on significant issues and progress against key milestones
- reports are provided on the status and future directions of the research program at each Commission meeting
- the activities of the Steering Committee for the Review of Government Service Provision, chaired by the Chair of the Commission, are reported on a quarterly basis
- a Commissioner designated with responsibility for competitive neutrality issues reports to the Commission annually
- the Head of Office provides monthly updates on key management issues.

The Audit and Risk Committee is a further source of accountability through its periodic review of particular aspects of the Commission's operations. Its membership comprises a chairperson and two members, all of which are independent and external to the Australian Public Service (table 5). The Commission's contracted internal auditors generally attend meetings, as does a representative of the Australian National Audit Office on an 'as required' basis. The Audit and Risk Committee meets at least four times a year. The charter determining the functions of the Audit and Risk Committee can be found at [www.pc.gov.au/about/governance/audit-committee](http://www.pc.gov.au/about/governance/audit-committee).

Table 5 – Audit and Risk Committee membership 2021-22

<i>Member name</i>	<i>Qualifications, knowledge, skills or experience</i>	<i>Number of meetings attended</i>	<i>Total annual remuneration</i>
Neil Byron	Neil has extensive experience in the Australian Public Service as an economist including 12 years as a Commissioner at the Productivity Commission. He was also the NSW Natural Resources Commissioner. As well as chairing the Productivity Commission's Audit and Risk Committee, Neil is a Non-executive Director of Alluvium Holdings Pty Ltd, and its subsidiary, Natural Capital Economics Pty Ltd; Member of the MDBA's Advisory Committee on Social, Economic and Environmental Sciences; and Chair of NSW Farm Forestry Expert Panel (Local Land Services). Neil has an honours degree in Forest Science from the ANU and a masters and doctorate in resource & environmental economics from University of British Columbia, in Vancouver, Canada.	4.5	\$10,500
Jenny Zahara	Jenny has 14 years experience in finance, governance and corporate services, in the Victoria Public Service, where she provided advice and support to Ministers, the Secretary and Executive Board. Jenny was the Chief Financial Officer at Department of Health. She holds a Bachelor of Commerce, Accounting and Finance and Bachelor of Science from the University of Melbourne, and is an FCPA and a graduate member of the Australian Institute of Company Directors (GAICD).	1	\$2,200
Michael Everett	Michael has over 30 years' experience in all aspects of finance, corporate services and governance in the both the Victorian and Commonwealth public service. He holds a Bachelor of Economics from La Trobe University and is FCPA and GAICD qualified.	5	\$0
Dennis Mihelyi	Dennis has more than 40 years' experience in finance, corporate services and governance within the Commonwealth public sector including key management roles as Chief Financial Officer and Head of Corporate Services. He holds a Bachelor of Planning from RMIT and Graduate Diploma in Accounting from Deakin University and is a CPA.	4	\$9,439

## Risk management and fraud control

Risk assessments are undertaken within a formal risk management model specified in the Commission's risk management plan. Senior management and the Audit and Risk Committee review the plan annually.

The Commission has prepared a fraud risk assessment and fraud control plan and has in place appropriate fraud prevention, detection, investigation reporting and data collection procedures and processes that meet the specific needs of the Commission and comply with the Commonwealth Fraud Control Framework. No instances of fraud were reported during 2021-22.

Information about the Commission's risk management procedures is available to all employees. It is brought to the attention of new employees on commencement, and awareness raising for existing employees is periodically undertaken.

## Ethical standards

The Commission has adopted a range of measures to promote ethical standards.

- It has embraced the Australian Public Service (APS) Values, Employment Principles and Code of Conduct.
- Senior managers are encouraged to set an example through the ethical and prudent use of Commonwealth resources.

The Commission has a number of specific policies relating to ethical standards that have regard to its own operational context. These deal with matters such as email and internet use, harassment and bullying, discrimination, fraud, disclosure of information, and managing conflicts of interest. The policies are readily available to all employees, including as part of induction, and are updated as required. Staff awareness and training sessions are offered periodically on these topics.

## External and internal scrutiny

The Commission's processes, which provide for high levels of transparency and community participation in its work, are a key means of promoting external scrutiny.

External scrutiny is also promoted through the Commission's extensive reporting, in various publications, of different aspects of its work.

Both the Commission and the Australian Government Competitive Neutrality Complaints Office (which has separate functions although located within the Commission) have service charters. Performance against the charters is monitored on an exceptions basis — that is, by complaints to designated senior managers. No complaints were received during 2021-22 in respect of either charter.

The Auditor-General issued an unqualified independent audit report on the Commission's 2021-22 financial statements. The Commission also engages a firm to undertake a program of internal audit reviews. In 2021-22, the internal auditors conducted a review of key financial controls, to assess the extent to which the Commission has in place and effectively operates key internal controls relating to the management of physical and virtual credit cards, and portable and attractive assets.

In addition, the internal auditors assessed the effectiveness of the Commission's policies, systems and processes in managing staff leave. The internal auditors also conducted a self-control assessment to assess the Commission's handling of business continuity challenges regarding COVID-19, and identify areas for improvement for managing future major disruption to business operations.

The Audit and Risk Committee also plays an important internal scrutiny role. The Committee's efforts during the year related mainly to:

- oversight of the Commission's internal audit program
- consideration of the annual financial statements
- scrutiny of the Commission's risk management assessment and plan
- reviews of relevant ANAO reports.

The use of Commission reports by Federal parliamentary committees during the year is discussed in chapters 2 and 4. The Commission is often invited to appear before Senate Committees to assist the work of Federal Parliament and facilitate scrutiny of its work, as well as being requested to attend Senate Estimates hearings, with appearances by the Chair and senior staff before the Senate Standing Committee on Economics.

The Commission's website continues to provide a valuable source of information about the current work of the Commission, its publications and other activities. During 2021-22, the Commission continued to develop its use of social media to raise awareness of its work and promote participation in its public inquiries. The use of infographics and videos to highlight and promote aspects of the Commission's work also continued.

## Management of human resources

The Commission's human resources management operates within the context of relevant legislation, government policy and Commission-developed policy. Day-to-day management is devolved to senior managers within a broad framework agreed by Management Committee. The Committee routinely monitors the performance of people management functions, including through standing reports to its monthly meetings.

### Workforce planning

The Commission's workforce planning approach reflects its operational context and objective, and key principles underpinning its operations.

In order to inform good policy and program design and promote public understanding of issues, the Commission must develop and maintain a capability that provides rigour of analysis, transparency of process, and independence and balance in our conclusions. This includes specialist technical expertise, including in modelling, and cultural capability to engage and work more effectively with Aboriginal and Torres Strait Islander people.

In 2021-22, the Commission continued to refine strategies to build and maintain skills and capabilities in consultation with senior management, to ensure alignment between known work priorities and resources and consider future capability requirements.

### Remuneration and employment conditions

Remuneration for the Chair and Commissioners is set directly by the Remuneration Tribunal in determinations that are publicly available on the Tribunal's website.

The Commission's Senior Executive Service (SES) employees are employed under individual determinations made under section 24(1) of the *Public Service Act 1999*. SES remuneration is set by the Chair, and subject to review periodically, in the context of particular role requirements and how the roles are performed, and taking account of public and private sector benchmarks, including those contained in the APS Remuneration Report published by the Australian Public Service Commission.

Information on key management personnel remuneration is set out in note 1 to the Financial Statements (chapter 6) and disaggregated reporting is in the Appendix. Average remuneration for senior executives and other highly paid staff is also in the Appendix.

The salary ranges of the Commission's non-SES employees are set out in the Enterprise Agreement 2017-2020 (the Agreement) and determination (under subsection 24(1) of the *Public Service Act 1999*) which sits alongside the Agreement. This determination provides additional annual salary increases out to September 2022. The Agreement also includes provisions aimed at providing a flexible, satisfying and rewarding environment for employees. The Agreement and determination are available on the Commission's website. The Appendix provides details of salary ranges at 30 June 2022.

At 30 June 2022, ten individual flexibility agreements were in place, addressing allowances and working arrangements.

### Performance management and pay

All Commission employees participate in regular performance management activities. The Commission's performance management policy and practice focuses on regular, meaningful feedback to support individuals' development.

The practical elements of the Commission's policy and practice are designed to:

- develop and maintain a strong culture of conversation between employees and managers, where two-way discussions and feedback are part of regular work practices
- focus on individual's capability development, including building and maintaining the capability of employees and managers to support and sustain high performance
- recognise that an individual's performance is shaped by both results and outcomes, and the behaviours demonstrated along the way
- focus efforts on learning and development in a way that can be tailored to individuals' needs at different points in their careers.

Ahead of each formal feedback round — which occur at six-monthly intervals — training is conducted for employees and managers to ensure readiness for formal feedback sessions.

Under the Commission's enterprise agreement, all salary increases are conditional upon employees being rated fully effective in their formal performance feedback. Performance bonuses are not a feature of remuneration for Commission employees.

## Consultative arrangements

The formal employee consultative mechanism is the Productivity Commission Consultative Committee. The Committee comprises elected employee representatives, a CPSU representative, and management representatives. The Committee met four times in 2021-22.

In addition, there is regular direct consultation between management and employees, including through regular team and all-staff meetings.

## Learning and development

The Commission's approach to learning and development aims to foster and maintain a vibrant learning culture, and support the Commission's work and employees' career development.

Employees can undertake learning and development across three core skills families:

- Technical
- Leadership/Management/Workplace
- Individual/Interpersonal

Opportunities for learning and development may be employee-identified, be supervisor-encouraged or directed, or reflect organisation-wide initiatives.

In 2021-22, the Commission focussed on delivering its learning and development activities in line with the Learning and Development Strategy 2021-23, taking a structured and coordinated approach with regular engagement with Management Committee on emerging priorities.

Learning activities delivered in 2021-22 included various programs that focused on maintaining our positive workplace culture through hybrid work, increasing cultural capability, and supporting inclusion and diversity.

Given the continued impacts of COVID-19 in 2021-22 and with consideration to hybrid working, the majority of L&D activities were delivered online or in hybrid format. Our L&D offerings reflected areas of organisational priority - including further building cultural capability across the Commission, and supporting leadership development for SES and Executive level staff. We continued to offer regular activities to ensure our hybrid work arrangements maintain a positive workplace culture, including to support inclusion and diversity and respect at work.

Other activities included a mentoring program for Executive Level employees, an Executive Leadership series, regularised new starter training for graduates and other new employees, and opportunities for staff participation in the Jawun secondment program, external leadership courses and mobility opportunities across the APS.

The Commission continued to provide access to specific training and development activities for individuals, including one-on-one coaching to address particular development needs and extensive on-the-job training within the Commission. A program of internal seminars on a range of topical economic, social and environmental issues also contributed to staff development.

Employees may also seek to access studies assistance (in the form of paid leave and/or assistance with fees) in the pursuit of tertiary qualifications.

The Commission also continues to offer opportunities for secondments and temporary transfers as a way to further build capability and experience.

## Work health and safety

A Work Health and Safety (WHS) Committee oversees the Commission's work health and safety program. Committee membership includes management and staff health and safety representatives from both the Commission's Canberra and Melbourne offices. The Committee met four times during 2021-22.

Regular workplace hazard inspections are conducted by members of the WHS Committee. No formal WHS investigations were conducted during the year and there were no notifiable incidents. No notices under Part 10 of the Work Health Safety Act 2011 were given to the Commission during 2021-22. Training is provided for employees who have specific WHS related responsibilities.

WHS activities and offerings continued to focus on supporting mental and physical health, and encouraging connection and communication through the pandemic and remote/hybrid work.

Some key activities during the year included:

- Webinars and small-group sessions to support mental health and resilience through the changing phases of the pandemic.
- Tailored support for staff and managers to assist individuals with challenges arising through the pandemic, including a series of confidential wellbeing check-in calls.
- Encouraging participation in virtual activities or team-based challenges to support physical wellbeing and connection through periods of COVID-19 restrictions.
- Continuing with regular initiatives, including flu vaccinations, skin checks and ergonomic workstation assessments (including virtual home-based assessments).

Work health and safety continued to be a key priority for the Commission during 2021-22, given the impacts of the COVID-19 pandemic across Australia. The Commission's focus has been on supporting the wellbeing of employees, ensuring technology and WHS practices support greater use of home-based work, and further developing and maintaining COVIDSafe plans and protocols to mitigate risk. There has been regular communication and consultation on WHS matters arising from COVID-19, and a range of supports have been made available to employees.

The Commission continues to provide effective early intervention support to ill and injured employees, where required. It also offers employees and their immediate family members access to independent, confidential and professional counselling and assistance for work-related or personal issues.

## Workplace diversity

The Commission is committed to building and maintaining a workplace culture that values and serves people with different backgrounds, experiences, and perspectives. The Commission continues to foster a culture that is supportive of employees achieving their potential and which values employee diversity.

As at 30 June 2022:

- 59 per cent of staff were female
- 1 per cent of staff identified as Indigenous
- 20 per cent of staff were born outside Australia
- 12 per cent of staff identified as having a first language other than English
- 2 per cent of staff identified as having a disability
- 28 per cent of staff were aged 50 years or older
- 19 per cent of staff were under 30 years of age.

In 2021-22, work continued to embed the Commission's Workplace Diversity and Inclusion Strategy. The Strategy reflects the Commission's commitment to focus efforts on three priority areas — disability employment, Indigenous employment and awareness of Indigenous cultures, and Culturally and Linguistically Diverse (CALD) / multicultural employment — as well as support for diversity and inclusion matters more broadly.

In 2021-22, SES Diversity Champions worked with staff to support the delivery of actions in the strategy, including establishing a Diversity Working Group. The Strategy is due for review in late 2022.

## Financial performance

The Productivity Commission is a listed entity under *the Public Governance, Performance and Accountability Act 2013*.

Revenue from government in 2021-22 was at \$36.6 million (\$33.3 million in 2020-21). Revenue from other sources was \$0.3 million (\$0.4 million in 2020-21).

Operating expenses fell in 2021-22 to \$32.5 million (\$33.3 million in 2020-21). The major expenses in 2021-22 were \$25.5 million in respect of employee expenses, \$3.5 million relating to supplier payments, and \$3.1 million in asset depreciation, amortisation and related expenses.

Under the Australian Government's net cash appropriation arrangements, individual agencies are not funded for depreciation or amortisation expenses through appropriation revenue. The operating result for 2021-22 was a \$5.7 million surplus, after excluding those depreciation and amortisation expenses.

The surplus mainly arose from lower than forecast employee related expenses and supplier costs. Employee benefits were lower primarily due to delays in filling positions, higher than expected outward secondments on cost recovery basis and lower than forecast leave expenses.

Table 4 (above) provides a summary of financial and staffing resources. The agency resource statement is provided in the Appendix. The audited financial statements for 2021-22 are shown in chapter 6 and include commentary on major budget variances.



## Other reporting requirements

### Purchasing

The Commission applies the Commonwealth Procurement Rules. The Commission's purchases of goods and services during 2021-22 were consistent with the 'value for money' principle underpinning those rules.

The Commission did not enter into any contracts or standing offers that were exempt from AusTender publication. During 2021-22, the Commission entered into one contract over \$100,000 (including GST) that did not include a provision for the ANAO to have access to the contractor's premises if required. The contract was for Application Management and Support services, with TechnologyOne Limited, and holds a total value of \$118,800 (including GST). The omission of the access clause was due to the contract being signed on Technology One's contract template, not the Australian Government's contract template. All remaining contracts of \$100,000 or more included the clause providing access to the Auditor-General, during the reporting period.

The Commission supports small business participation in the Commonwealth Government procurement market by, for example, use of the Commonwealth Contracting suite for low-risk procurements valued under \$200,000 and communication in clear, simple language in accordance with the Small Business Engagement Principles. Small and medium enterprises and small enterprise participation statistics are available on the Department of Finance's website at [www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts](http://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts).

### Consultancies

The Commission continued to utilise the services of a small number of consultants during the year where it was cost-effective to do so.

During 2021-22, the Commission entered into three new consultancy contracts and there was one ongoing consultancy contracts that had been entered into during 2021-22. Total expenditure on consultancies was \$42,029 (table 6).

Table 6 – Number and expenditure on consultants, current reporting period (2021-22)

	<i>Number</i>	<i>Expenditure \$ (GST inc.)</i>
New contracts entered into during the reporting period	3	36,388
Ongoing contracts entered into during a previous reporting period	1	5,641
Total	4	42,029

Table 7 provides information on consultants in the five years to 2021-22.

Table 7 – Expenditure on consultancies, 2017-18 to 2021-22

	<i>2017-18</i>	<i>2018-19</i>	<i>2019-20</i>	<i>2020-21</i>	<i>2021-22</i>
	<i>\$'000</i>	<i>\$'000</i>	<i>\$'000</i>	<i>\$'000</i>	<i>\$'000</i>
Expenditure	98	63	181	67	42

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website [www.tenders.gov.au](http://www.tenders.gov.au).

## Reportable non consultancy contracts

During 2021-22, the Commission entered into one new reportable non consultancy contracts and there was one ongoing consultancy contract that had been entered into during 2021-22. Total expenditure on reportable non consultancy contracts was \$64,341.

Table 8 – Number and expenditure on reportable non consultancy contracts, current reporting period (2021-22)

	Number	Expenditure \$ (GST inc.)
New contracts entered into during the reporting period	1	15,281
Ongoing contracts entered into during a previous reporting period	1	49,060
Total	2	64,341

Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.

## Ecologically sustainable development (ESD)

Under the *Environment Protection and Biodiversity Conservation Act 1999*, agencies are required — through their annual reports — to report on ecologically sustainable development (ESD) and environmental matters. This requirement is part of the Government's program to improve progress in implementing ESD.

The Commission operates under statutory guidelines, one of which is to have regard to the need 'to ensure that industry develops in a way that is ecologically sustainable' (s. 8(1)(i) of the *Productivity Commission Act 1998*). This legislation also prescribes that at least one member of the Commission 'must have extensive skills and experience in matters relating to the principles of ecologically sustainable development and environmental conservation' (s. 26(3)).

There are five aspects against which agencies are required to report.

The first relates to how an agency's actions during the reporting period accorded with the principles of ESD. Reflecting its statutory guidelines, ESD principles are integral to the Commission's analytical frameworks, their weighting depending on the particular inquiry or research topic. The Commission's inquiries into *Right to Repair* and *Register of Foreign-owned Water Entitlements* are examples of work undertaken in 2021-22 that required integration of complex economic, social and environmental considerations.

The second reporting requirement asks how the Government's outcome for the Commission contributes to ESD. As stated elsewhere in this report, the outcome nominated for the Commission is:

Well-informed policy decision making and public understanding on matters relating to Australia's productivity and living standards, based on independent and transparent analysis from a community-wide perspective.

In pursuing this outcome, the Commission is required to take into account impacts on the community as a whole — these may be economic, social and/or environmental. The transparency of its processes provides the opportunity for anyone with an interest in an inquiry to make their views known and to have these considered. Consequently, a broad range of views and circumstances are taken into account, in keeping with the ESD principle that 'decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations'.

The third to fifth reporting requirements relate to the impact of the Commission's internal operations on the environment. The Commission is a relatively small, largely office-based, organisation in rented accommodation, and it adopts measures aimed at the efficient management of waste and minimising energy consumption.

In order to manage its impacts on the environment in a systematic and ongoing way, the Commission maintains an Environmental Management System. The Environmental Management System contains the Commission's environmental policy, an environmental management program to address identified impacts, and provision for monitoring and reporting on performance.

During 2021-22, the Commission recorded energy usage of 2,965 MJ/person/annum (2020-21: 3,307 MJ/person/annum). The Department is required to meet the target of no more than 7,500 megajoules (MJ) per person, per annum, for office tenant light and power under the EEGO Policy. In 2021-22, the Commission met this target, using 2,965 MJ per person, per annum. The EEGO performance improved by ~ 10 % when compared to FY 2020-21. The closure and vacation of premises at Melbourne 530 Collins Street resulted in an energy consumption reduction of ~ 31 % as well as a cost reduction of ~ 27 % during this financial year. The major reason behind the reduction in office occupant density is due to COVID-19 restrictions and improved TLP (Tenant Light and Power) performance. The Commission has offices in Melbourne and Canberra in buildings that have 6.0 star and 4.5 stars NABERS Energy ratings respectively.

## National Disability Strategy

Since 1994, Commonwealth departments and agencies have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007-08, reporting on the employer role was transferred to the Australian Public Service Commission's State of the Service reports and the APS Statistical Bulletin. These reports are available at [www.apsc.gov.au](http://www.apsc.gov.au). From 2010-11, departments and agencies have no longer been required to report on these functions.

Australia's Disability Strategy 2021–2031 was launched in December 2021, and replaces the National Disability Strategy 2010–2020 (original strategy). It sets out a plan for continuing to improve the lives of people with disability in Australia over the next ten years.

Disability Employment is one of the key focus areas of the Commission's Workplace Diversity and Inclusion Strategy 2019–22, and the Commission will look to Australia's Disability Strategy 2021–2031 as part of the review and update of the next Strategy, to be undertaken in late 2022.

## Freedom of information

Entities subject to the *Freedom of Information Act 1982* (FOI Act) are required to publish information to the public as part of the Information Publication Scheme (IPS). This requirement is in Part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements. The Commission's plan is at [www.pc.gov.au/about/governance/freedom-of-information](http://www.pc.gov.au/about/governance/freedom-of-information).

## Advertising and market research

The Commission does not undertake 'advertising campaigns'. However, it does publicise its government commissioned inquiries and studies so that any individual, firm or organisation with an interest has an opportunity to present their views. Publicity takes the form of newspaper advertisements (as required by the *Productivity Commission Act 1998*), press releases, email alerts, notification on the Commission's website and via social media, and distribution of Commission circulars.

In 2021-22, expenditure on advertising related to commissioned Inquiries and studies was \$6,391.

# Financial Statements

## Independent Auditor's Report



### INDEPENDENT AUDITOR'S REPORT

#### To the Treasurer

#### Opinion

In my opinion, the financial statements of the Productivity Commission (the Entity) for the year ended 30 June 2022:

- (a) comply with Australian Accounting Standards – Simplified Disclosures and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2022 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2022 and for the year then ended:

- Statement by the Chair and Chief Finance Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement; and
- Notes to and forming part of the financial statements, comprising a summary of significant accounting policies and other explanatory information.

#### Basis for opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Entity in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (Including Independence Standards)* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

#### Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Chair is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Simplified Disclosures and the rules made under the Act. The Chair is also responsible for such internal control as the Chair determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chair is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result of an administrative restructure or for any other reason. The Chair is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless the assessment indicates that it is not appropriate.



### Auditor's responsibilities for the audit of the financial statements

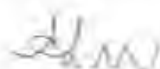
My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Accountable Authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Amy Wicks  
Audit Principal  
Delegate of the Auditor-General

Canberra  
25 August 2022

## Statement by the Chair and Chief Finance Officer



Australian Government  
Productivity Commission

Locked Bag 2  
Collins Street East  
Melbourne VIC 8003  
Telephone 03 9653 2100  
Facsimile 03 9653 2199  
[www.pc.gov.au](http://www.pc.gov.au)

***From the Chair's Office***

### Statement by the Chair and Chief Finance Officer

In our opinion, the attached financial statements for the year ended 30 June 2022 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Productivity Commission will be able to pay its debts as and when they fall due.

A handwritten signature in black ink, appearing to read 'Michael Brennan'.

Michael Brennan  
Chair

25 August 2022

A handwritten signature in black ink, appearing to read 'Jane Holmes'.

Jane Holmes  
Chief Finance Officer

25 August 2022

# Statement of Comprehensive Income

for the period ended 30 June 2022

		2022	2021	Original Budget
	Notes	\$'000	\$'000	\$'000
<b>NET COST OF SERVICES</b>				
<b>Expenses</b>				
Employee benefits	1A	25,554	24,451	29,912
Suppliers	2A	3,597	4,250	4,695
Depreciation and amortisation	4A	3,163	4,267	3,179
Finance costs	2E	176	212	306
Losses from asset sales		<u>12</u>	<u>138</u>	<u>-</u>
<b>Total expenses</b>		<b><u>32,502</u></b>	<b><u>33,318</u></b>	<b><u>38,092</u></b>
<b>Own-Source Income</b>				
<b>Own-Source Revenue</b>				
Revenue from contracts with customers	5B	293	348	10
Resources received free of charge	5C	<u>50</u>	<u>50</u>	<u>50</u>
<b>Total own-source income</b>		<b><u>343</u></b>	<b><u>398</u></b>	<b><u>60</u></b>
<b>Net cost of services</b>		<b><u>32,159</u></b>	<b><u>32,920</u></b>	<b><u>38,032</u></b>
Revenue from Government		<u>36,616</u>	<u>33,297</u>	<u>36,616</u>
<b>Surplus / (Deficit)</b>		<b><u>4,457</u></b>	<b><u>377</u></b>	<b><u>(1,416)</u></b>
<b>OTHER COMPREHENSIVE INCOME</b>				
<b>Items not subject to subsequent reclassification to net cost of services</b>				
Changes in asset revaluation reserve	4A	<u>-</u>	<u>234</u>	<u>-</u>
<b>Total comprehensive income / (loss)</b>		<b><u>4,457</u></b>	<b><u>611</u></b>	<b><u>(1,416)</u></b>

The above statement should be read in conjunction with the accompanying notes.

## Budget Variances Commentary

The main budget variance within expenses are supplier costs, employee benefits and depreciation. Supplier costs were lower mainly due to variations in inquiry and other project activity. The nature, scope and timing of public inquiries and other work commissioned by Government are not always known when the Original Budget estimates are prepared, and those factors have had a bearing on cost outcomes. Depreciation and amortisation reduced due to the reduction in leases held. Revenue from contracts with customers is higher due to the unexpected extension of a previous arrangement. Salary and wages was lower than budget due to staff being recruited later than planned and a large reduction in employee provisions.



# Statement of Financial Position

as at 30 June 2022

		2022	2021	Original Budget
	Notes	\$'000	\$'000	\$'000
<b>ASSETS</b>				
<b>Financial assets</b>				
Cash and cash equivalents		389	453	288
Appropriation receivables	3B	38,562	32,977	31,143
Trade and other receivables	5A	104	110	165
<b>Total financial assets</b>		<b>39,055</b>	<b>33,540</b>	<b>31,596</b>
<b>Non-financial Assets</b>				
Buildings <sup>1</sup>	4A	18,614	21,366	17,965
Plant and equipment	4A	847	1,177	1,074
Computer software	4A	1	70	146
Other non-financial assets		798	467	294
<b>Total non-financial assets</b>		<b>20,260</b>	<b>23,080</b>	<b>19,479</b>
<b>Total assets</b>		<b>59,315</b>	<b>56,620</b>	<b>51,075</b>
<b>LIABILITIES</b>				
<b>Payables</b>				
Suppliers	2B	581	328	270
Other payables	2C	629	460	387
<b>Total payables</b>		<b>1,210</b>	<b>788</b>	<b>657</b>
<b>Interest bearing liabilities</b>				
Leases	2D	15,766	17,663	14,983
<b>Total interest bearing liabilities</b>		<b>15,766</b>	<b>17,663</b>	<b>14,983</b>
<b>Provisions</b>				
Employee provisions	1B	9,204	10,320	11,859
<b>Total provisions</b>		<b>9,204</b>	<b>10,320</b>	<b>11,859</b>
<b>Total liabilities</b>		<b>26,180</b>	<b>28,771</b>	<b>27,499</b>
<b>Net Assets</b>		<b>33,135</b>	<b>27,849</b>	<b>23,576</b>
<b>EQUITY</b>				
Contributed equity		12,140	11,311	12,140
Reserves		1,827	1,827	1,593
Retained surplus		19,168	14,711	9,843
<b>Total equity</b>		<b>33,135</b>	<b>27,849</b>	<b>23,576</b>

The above statement should be read in conjunction with the accompanying notes.

1. Right-of-use assets are included in Buildings line item.

## Budget Variances Commentary

The main budget variance in respect of the financial position is a higher level of appropriation receivables (Revenue from Government) as a consequence of lower expenses in 2021-22 (refer to the commentary under the Statement of Comprehensive Income) and a higher than forecast opening balance.

## Statement of Changes in Equity

for the period ended 30 June 2022

		2022	2021	Original Budget
	Notes	\$'000	\$'000	\$'000
<b>CONTRIBUTED EQUITY</b>				
Opening balance				
Balance carried forward from previous period		11,311	8,984	11,311
<b>Transactions with owners</b>				
Contributions by Owners				
Departmental capital budget	3A	829	2,327	829
Total transactions with owners		829	2,327	829
Closing balance as at 30 June		12,140	11,311	12,140
<b>RETAINED EARNINGS</b>				
Opening balance				
Balance carried forward from previous period		14,711	14,334	11,259
Comprehensive Income				
Surplus / (Deficit) for the period		4,457	377	(1,416)
Total comprehensive income		4,457	377	(1,416)
Closing balance as at 30 June		19,168	14,711	9,843
<b>ASSET REVALUATION RESERVE</b>				
Opening balance				
Balance carried forward from previous period		1,827	1,593	1,593
Comprehensive Income				
Other comprehensive income		-	234	-
Total comprehensive income		-	234	-
Closing balance as at 30 June		1,827	1,827	1,593

		2022	2021	Original Budget
	Notes	\$'000	\$'000	\$'000
<b>TOTAL EQUITY</b>				
<b>Opening balance</b>				
Balance carried forward from previous period		27,849	24,911	24,163
<b>Comprehensive Income</b>				
Surplus / (Deficit) for the period		4,457	377	(1,416)
Other comprehensive income		-	234	-
<b>Total comprehensive income</b>		4,457	611	(1,416)
<b>Transactions with owners</b>				
<b>Contributions by Owners</b>				
Departmental capital budget		829	2,327	829
<b>Total transactions with owners</b>		829	2,327	829
<b>Closing balance as at 30 June</b>		<b>33,135</b>	27,849	23,576

The above statement should be read in conjunction with the accompanying notes.

### Budget Variances Commentary

The variation against budget in respect of retained earnings mainly reflects the higher operating surpluses in the current and prior years (refer to the commentary under the Statement of Comprehensive Income).

## Cash Flow Statement

for the period ended 30 June 2022

	2022	2021	Original Budget
	\$'000	\$'000	\$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	33,735	35,478	36,496
Sale of goods and rendering of services	250	386	10
GST received	619	1,200	-
Other	-	300	-
<b>Total cash received</b>	<b>34,604</b>	<b>37,364</b>	<b>36,506</b>
<b>Cash used</b>			
Employees	26,203	25,571	29,792
Suppliers	3,923	4,927	4,645
Interest payments on lease liabilities	176	201	306
GST paid	570	1,189	-
Section 74 receipts transferred to OPA	1,902	2,593	-
<b>Total cash used</b>	<b>32,774</b>	<b>34,481</b>	<b>34,743</b>
<b>Net cash from operating activities</b>	<b>1,830</b>	<b>2,883</b>	<b>1,763</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment	23	4,058	190
<b>Total cash used</b>	<b>23</b>	<b>4,058</b>	<b>190</b>
<b>Net cash used by investing activities</b>	<b>(23)</b>	<b>(4,058)</b>	<b>(190)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Contributed equity	26	3,977	190
<b>Total cash received</b>	<b>26</b>	<b>3,977</b>	<b>190</b>
<b>Cash used</b>			
Principal payments of lease liabilities	1,897	2,637	1,763
<b>Total cash used</b>	<b>1,897</b>	<b>2,637</b>	<b>1,763</b>
<b>Net cash (used by) / from financing activities</b>	<b>(1,871)</b>	<b>1,340</b>	<b>(1,573)</b>

The above statement should be read in conjunction with the accompanying notes.

## Budget Variances Commentary

The variation in total cash received and used reflects lower supplier related expenses (refer to the commentary under the Statement of Comprehensive Income), variation to the asset replacement program and a higher rendering of services revenue due to the unexpected extension of a previous arrangement.

The COVID-19 pandemic has created unprecedented economic uncertainty. It has impacted the Commission operations in the following areas for the financial year ended 30 June 2022:

- Financial savings because of reduced travel.
- Financial savings due to postponed or cancelled face to face contact activities including staff development.

## Overview

### Objectives of the Productivity Commission

The Productivity Commission is an Australian Government controlled entity. It is a not-for-profit entity.

The objective of the Commission is to provide independent research and advice on a range of economic, social and environmental issues affecting the welfare of Australians. The Commission's work encompasses all sectors of the economy as well as social and environmental issues. Its activities cover all levels of government responsibility — Federal, State and Territory and Local.

As a review and advisory body, the Commission does not have responsibility for implementing government programs. It carries out inquiry, research, advising and incidental functions prescribed under *the Productivity Commission Act 1998*.

### The Basis of Preparation

The financial statements are required by section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The financial statements have been prepared in accordance with:

- *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR)*, and
- Australian Accounting Standards and Interpretations – including simplified disclosures for Tier 2 Entities under AASB 1060 issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

### New Accounting Standards

All new standards, revised standards, amendments to standards or interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect on the Commission's financial statements.

Standard/ Interpretation	Nature of change in accounting policy, transitional provisions, and adjustment to financial statements
SB 1060 General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not-for-Profit Tier 2 Entities	AASB 1060 applies to annual reporting periods beginning on or after 1 July 2021 and replaces the reduced disclosure requirements (RDR) framework. The application of AASB 1060 involves some reduction in disclosure compared to the RDR with no impact on the reported financial position, financial performance and cash flows of the entity.

## Cash

Cash is recognised at its nominal amount. Cash and cash equivalents includes cash on hand, deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value.

## Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would be have purchased if they had not been donated. Use of those resources is recognised as an expense. Resources free of charge are recorded as either revenue or gains depending on their nature.

## Taxation

The Commission is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

## Events after the Reporting Period

There was no subsequent event that had the potential to significantly affect the on-going structure and financial activities of the Commission.

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## Notes to and forming part of the Financial Statements

### **1 Employee Related**

- 1A Employee Benefits
- 1B Employee Provisions
- 1C Key Management Personnel Remuneration
- 1D Related Party Disclosures

### **2 Supplier Related**

- 2A Suppliers (Expense)
- 2B Suppliers (Liability)
- 2C Other Payables
- 2D Interest Bearing Liabilities - Leases
- 2E Finance Costs

### **3 Funding from Government and Other Sources**

- 3A Appropriations
- 3B Appropriations Receivable
- 3C Net Cash Appropriation Arrangements

### **4 Property, Plant and Equipment**

- 4A Analysis of Property, Plant and Equipment and Intangibles
- 4B Fair Value Measurement

### **5 Other Financial Assets and Own Source Income**

- 5A Trade and Other Receivables
- 5B Own-Source Income – Revenue from Contracts with Customers
- 5C Resources received free of charge

### **6 Other Information**

- 6A Contingent Assets and Liabilities
- 6B Financial Instruments
- 6C Current/ Non-Current Distinction for Assets and Liabilities



## Note 1: Employee Related

### Note 1A: Employee Benefits

	2022	2021
	\$'000	\$'000
Wages and salaries	19,411	19,496
Superannuation:		
Defined contribution plans	1,517	1,641
Defined benefit plans	1,670	1,793
Leave and other entitlements	<u>2,956</u>	<u>1,521</u>
<b>Total employee benefits</b>	<b><u>25,554</u></b>	<b><u>24,451</u></b>

### Note 1B: Employee Provisions

	2022	2021
	\$'000	\$'000
Leave	<u>9,204</u>	<u>10,320</u>
<b>Total employee provisions</b>	<b><u>9,204</u></b>	<b><u>10,320</u></b>

### Accounting Policy

Liabilities for 'short term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits expected to be settled within twelve months of the end of reporting period are measured at their nominal amounts.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

#### Leave

The liability for employee benefits includes provision for annual leave and long service leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the Commission's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by use of the Australian Government Actuary's shorthand method using the Standard Commonwealth sector probability profile. The estimate of the present value of the liability takes into account staff turnover rates and expected pay increases. This method is affected by fluctuations in the Commonwealth Government 10 year Treasury Bond rate.

#### Separation and Redundancy

Provision is made for separation and redundancy benefit payments. The Commission recognises a provision for termination when it has developed a detailed formal plan for terminations and has informed those employees affected that it will carry out the terminations.

## Superannuation

The majority of staff at the Commission are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS accumulation plan (PSSap).

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedules and notes.

The Commission makes employer contributions to the employees' superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The Commission accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the financial year.

## Note 1C: Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the Commission, directly or indirectly, including any director (whether executive or otherwise) of the Commission. The Commission has determined the key management personnel to be the Chair, Head of Office, Executive Managers and Assistant Commissioner Corporate. Key management remuneration is reported in the table below:

	2022	2021
	\$'000	\$'000
Short-term employee benefits	1,625	1,670
Post-employment benefits	181	190
Other long-term employee benefits	41	42
<b>Total key management personnel remuneration expenses</b>	<b><u>1,847</u></b>	<b><u>1,902</u></b>

The total number of key management personnel that are included in the above table are 7 (2021: 5).

1. The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the Commission.

## Note 1D: Related Party Disclosures

### Related party relationships

The Commission is an Australian Government controlled entity. Related parties to the Commission are Key Management Personnel including the Portfolio Minister and Executive and other Australian Government entities.

### Transactions with related parties

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions are the payment or refund of taxes, receipt of Medicare rebate or higher education loans. These transactions have not been disclosed in this note.

The Commission transacts with other Australian Government controlled entities consistent with normal day-to-day business operations provided under normal terms and conditions, including payment of workers compensation and insurance premiums; transfer of employee entitlements; purchase of statistical data; and other payments required by/according to Government policy or regulations. These are not considered individually significant to warrant separate disclosure as related party transactions.

Key Management Personnel disclosures were completed and no related party transactions were identified.

## Note 2: Supplier Related

### Note 2A: Suppliers (Expense)

	2022	2021
	\$'000	\$'000
<b>Goods and services supplied or rendered</b>		
Consultants	38	61
Contractors	60	110
Travel	220	77
IT services	1,075	1,213
Other administration expenses	<u>2,163</u>	<u>2,326</u>
<b>Total goods and services supplied or rendered</b>	<u><b>3,556</b></u>	<u><b>3,787</b></u>
Goods supplied	85	226
Services rendered	<u>3,471</u>	<u>3,561</u>
<b>Total goods and services supplied or rendered</b>	<u><b>3,556</b></u>	<u><b>3,787</b></u>
<b>Other supplier expenses</b>		
Workers compensation expenses	41	35
Variable lease payments	<u>-</u>	<u>428</u>
<b>Total other supplier expenses</b>	<u><b>41</b></u>	<u><b>463</b></u>
<b>Total supplier expenses</b>	<u><b>3,597</b></u>	<u><b>4,250</b></u>

The above lease disclosure should be read in conjunction with the accompanying notes 2D, 2E and 4A

### Accounting Policy

#### Short-term leases and leases of low value assets

The Commission has elected not to recognise right-of-use assets and lease liabilities for short term leases of assets that have a lease term of 12 months or less and leases of low-value assets (less than \$10,000). The Commission recognises the lease payments associated with these leases as an expense on a straight line basis over the lease term. The Commission no longer has any short-term leases at 30 June 2022.

### Note 2B: Suppliers (Liability)

	2022	2021
	\$'000	\$'000
Trade creditors and accruals	<u>581</u>	<u>328</u>
<b>Total suppliers payables</b>	<u><b>581</b></u>	<u><b>328</b></u>

Settlement was usually made within 20 days. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

## Note 2C: Other Payables

	2022	2021
	\$'000	\$'000
Wages and salaries	541	396
Superannuation	88	64
<b>Total other payables</b>	<b>629</b>	<b>460</b>

## Note 2D: Interest Bearing Liabilities – Leases

	2022	2021
	\$'000	\$'000
Lease liabilities	15,766	17,663
<b>Total interest bearing liabilities - leases</b>	<b>15,766</b>	<b>17,663</b>

Total cash outflow for leases for the year ended 30 June 2022 was \$2.1 million (2021: \$2.8 million)

## Maturity analysis – contractual undiscounted cash flows

	2022	2021
	\$'000	\$'000
Within 1 year	2,161	2,073
Between 1 to 5 years	9,595	9,208
More than 5 years	4,484	7,032
<b>Total leases</b>	<b>16,240</b>	<b>18,313</b>

The above lease disclosures should be read in conjunction with the accompanying notes 2E and 4A.

## Accounting Policy

### Leased Right of Use (ROU) Assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise of the initial lease liability amount, initial direct costs incurred when entering into any lease less any lease incentives received.

Following initial adoption of AASB 16 lease ROU assets continue to be measured at cost after initial recognition in the financial statements.

### Leases

For all new contracts entered, the Commission considers whether the contract is, or contains a lease. Once it has been determined that it is a lease, the lease liability is measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease, or the department's incremental borrowing rate.

Following initial measurement, the liability will be reduced for payments made and increased for interest. It is remeasured to reflect any reassessment or modification of the lease. When the lease liability is remeasured, the corresponding adjustment is reflected in the right of use asset or profit and loss depending on the nature of the reassessment or modifications.

## Note 2E: Finance Costs

	2022	2021
	\$'000	\$'000
Interest on lease liabilities	176	201
Unwinding of discount	<u>-</u>	<u>11</u>
<b>Total finance costs</b>	<b><u>176</u></b>	<b><u>212</u></b>

The above lease disclosures should be read in conjunction with the accompanying notes 2D, 2E and 4A.

## Accounting Policy

All borrowing costs are expensed as incurred.

## Note 3: Funding from Government and Other Sources

### Note 3A: Appropriations

#### Note 3A-1: Appropriations – Annual Appropriations ('Recoverable GST exclusive')

##### Annual Appropriations for 2022

	Annual Appropriation <sup>1</sup>	Adjustment to appropriation <sup>2</sup>	Total appropriation	Appropriation applied in 2022 (current and prior years)	Variance <sup>4</sup>
	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Departmental</b>					
Ordinary annual services	36,616	1,325	37,941	33,222	4,719
Capital Budget <sup>3</sup>	829	-	829	26	803
<b>Total departmental</b>	<b>37,445</b>	<b>1,325</b>	<b>38,770</b>	<b>33,248</b>	<b>5,522</b>

**Notes:**

1. Departmental appropriations do not lapse at financial year-end.
2. The adjustment to appropriation was PGPA Act Section 74 receipts.
3. The Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.
4. The variance in appropriation applied to the capital budget reflects the minimal spend on capital items. The variance in ordinary annual services reflects a lower than anticipated spend on salary and wages.

#### Note 3A-1: Appropriations – Annual Appropriations ('Recoverable GST exclusive') continued

##### Annual Appropriations for 2021

	Annual Appropriation <sup>1</sup>	Adjustment to appropriation <sup>2</sup>	Total appropriation	Appropriation applied in 2021 (current and prior years)	Variance <sup>4</sup>
	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Departmental</b>					
Ordinary annual services	33,297	1,561	34,858	34,281	577
Capital Budget <sup>3</sup>	2,327	-	2,327	4,058	(1,731)
<b>Total departmental</b>	<b>35,624</b>	<b>1,561</b>	<b>37,185</b>	<b>38,339</b>	<b>(1,154)</b>

**Notes:**

1. Departmental appropriations do not lapse at financial year-end.
2. The adjustment to appropriation was PGPA Act Section 74 receipts.
3. The Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services and are not separately identified in the Appropriation Acts.



4. The variance in appropriation applied to the capital budget reflects the major capital expenditure on the lease fitout of the new office premises.

### Note 3A-2: Appropriations – Unspent Departmental Annual Appropriations ('Recoverable GST exclusive')

	2022	2021
	\$'000	\$'000
<b>Authority</b>		
<i>Appropriation Act (No.1) 2020-21</i>	38,460	33,430
<i>Appropriation Act (No.1) 2021-22</i>	<u>492</u>	<u>-</u>
<b>Total as at 30 June</b>	<u><b>38,952</b></u>	<u><b>33,430</b></u>

### Accounting Policy

Revenue from Government – Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the Commission gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

Equity Injections – Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

### Note 3B: Appropriations Receivable

	2022	2021
	\$'000	\$'000
<b>Appropriations receivable</b>		
Appropriation receivable	<u>38,562</u>	<u>32,977</u>
<b>Total appropriations receivable</b>	<u><b>38,562</b></u>	<u><b>32,977</b></u>

### Note 3C: Net Cash Appropriation Arrangements

	2022	2021
	\$'000	\$'000
<b>Total comprehensive income / (loss) – as per the Statement of Comprehensive Income</b>	<b>4,457</b>	611
Plus: depreciation/amortisation of assets funded through appropriations (departmental capital budget funding and / or equity injections)	<b>970</b>	1,229
Plus: depreciation right-of-use assets	<b>2,193</b>	3,038
Less: lease principal repayments	<u><b>(1,897)</b></u>	<u><b>(2,637)</b></u>
<b>Net Cash Operating Surplus / (Deficit)</b>	<u><b>5,723</b></u>	<u><b>2,241</b></u>

From 2010-11, the Government introduced net cash appropriation arrangements where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.

The inclusion of depreciation/amortisation expenses related to ROU leased assets and the lease liability principle repayment amount reflects the cash impact on implementation of AASB 16 Leases, it does not directly reflect a change in appropriation arrangements.

## Note 4: Property, Plant and Equipment

### Note 4A: Analysis of Property, Plant and Equipment and Intangibles

Reconciliation of the opening and closing balances of property, plant and equipment and intangibles (2021-22)

	<i>Buildings</i>	<i>Plant &amp; equipment</i>	<i>Computer software</i>	<i>Total</i>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
<b>As at 1 July 2021</b>				
Gross book value	24,295	1,177	802	26,274
Accumulated depreciation / amortisation and impairment	<u>(2,929)</u>	<u>-</u>	<u>(732)</u>	<u>(3,661)</u>
<b>Total as at 1 July 2021</b>	<b><u>21,366</u></b>	<b><u>1,177</u></b>	<b><u>70</u></b>	<b><u>22,613</u></b>
Additions:				
By purchase	-	23	-	23
Depreciation / amortisation expense	(559)	(353)	(58)	(970)
Depreciation on right-of-use assets	(2,193)	-	-	(2,193)
Disposals	<u>-</u>	<u>-</u>	<u>(11)</u>	<u>(11)</u>
<b>Total as at 30 June 2022</b>	<b><u>18,614</u></b>	<b><u>847</u></b>	<b><u>1</u></b>	<b><u>19,462</u></b>
<b>Total as at 30 June 2022 represented by:</b>				
Gross book value	24,295	1,200	195	25,690
Accumulated depreciation/amortisation and impairment	<u>(5,681)</u>	<u>(353)</u>	<u>(194)</u>	<u>(6,228)</u>
<b>Total as at 30 June 2022</b>	<b><u>18,614</u></b>	<b><u>847</u></b>	<b><u>1</u></b>	<b><u>19,462</u></b>
<b>Carrying amount of right-of-use assets</b>	<b>14,718</b>	<b>-</b>	<b>-</b>	<b>14,718</b>

The fair value of buildings has been taken to be the fair value measurement of similar buildings as determined by an independent valuer as at 30 June 2022.

There are no capital commitments to acquire any property, plant, equipment and intangible assets as at balance date.

There are no plans to dispose of any property, plant equipment or intangibles in the next 12 months as at 30 June 2022.

### Accounting Policy

#### Asset Recognition Threshold

Purchases of property, plant and equipment and software are recognised initially at cost in the statement of financial position, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located.

## Lease Right of Use (ROU) Assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise of initial lease liability amount, initial direct costs incurred when entering into the lease less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

Following initial application of AASB16, an impairment review is undertaken for any right of use lease asset that shows indicators of impairment and an impairment loss is recognised against any right of use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, General Government Sector and Whole of Government financial statements.

## Revaluations

Following initial recognition at cost, property, plant and equipment excluding ROU assets are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Assets were revalued by Jones Lang LaSalle Advisory Services Pty Ltd as at 30 June 2021. The revaluation increment for leasehold improvements and decrement for plant and equipment were credited and debited respectively to the asset revaluation reserve by asset class and included in the equity section of the statement of financial position.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised in surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

## Depreciation and Amortisation

Depreciable property, plant and equipment assets and intangible assets are written-off to their estimated residual values over their estimated useful lives to the Commission using, in all cases, the straight-line method of depreciation.

Depreciation and amortisation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods as appropriate.

Depreciation and amortisation rates applying to each class of depreciable asset are based on the following useful lives:

	2022	2021
Buildings (leasehold improvements, make-good and ROU assets)	Lease term	Lease term
Plant and equipment	3 to 20 years	3 to 20 years
Intangibles (computer software)	3 to 5 years	3 to 5 years

## Impairment

All assets were assessed for impairment at 30 June 2022. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs of disposal and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows and the asset would be replaced if the Commission were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

## Derecognition

An item of property, plant and equipment and software is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

## Intangibles

The Commission's intangibles comprise purchased software. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

## Note 4B: Fair Value Measurement

### Fair value measurements at the end of reporting period

	2022	2021
	\$'000	\$'000
<b>Non-financial assets</b>		
Buildings	18,614	21,366
Other property, plant and equipment	<u>847</u>	<u>1,177</u>
<b>Total fair value measurements of assets in the statement of financial position</b>	<b><u>19,461</u></b>	<b><u>22,543</u></b>

The above disclosure should be read in conjunction with the accompanying note 4A.

## Note 5: Other Financial Assets and Own Source Income

### Note 5A: Trade and Other Receivables

	2022	2021
	\$'000	\$'000
<b>Goods and services receivables</b>		
Goods and services	<u>79</u>	<u>35</u>
<b>Total goods and services receivables</b>	<u>79</u>	<u>35</u>
<b>Other receivables:</b>		
GST receivable from the Australian Taxation Office	25	72
Other	<u>-</u>	<u>3</u>
<b>Total other receivables</b>	<u>25</u>	<u>75</u>
<b>Total trade and other receivables (gross and net)</b>	<u><u>104</u></u>	<u><u>110</u></u>

All receivables are not overdue and are expected to be recovered within 12 months.

Credit Terms for goods and services were within 30 days (2021: 30 days)

#### Accounting Policy

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at the end of the reporting period. An Expected Credit Loss is made when collectability of the debt is no longer probable.

### Note 5B: Own Source Income – Revenue from Contracts with Customers

	2022	2021
	\$'000	\$'000
Rendering of services – outsourced service delivery	<u>293</u>	<u>348</u>
<b>Total revenue from contracts with customers</b>	<u><u>293</u></u>	<u><u>348</u></u>

There is no disaggregation of revenue from contracts with customers as all contracts were of similar characteristics and primarily consists of the provision of shared services to other government agencies via memorandum of understanding on a cost recovery basis.

#### Accounting Policy

Revenue from the rendering of services is recognised at a point in time when the performance obligation is satisfied, when the service is completed and over time when the customer simultaneously receives and consumes the services as it is provided. The Commission's non-appropriation revenue primarily consists of the provision of shared services to other government agencies via a memorandum of understanding (MOU) on a cost recovery basis. Approximately 99% of the Commission's revenue is from Government Appropriation and therefore outside the scope of AASB 15.

## Note 5C: Resources received free of charge

	<b>2022</b>	<b>2021</b>
	<b>\$'000</b>	<b>\$'000</b>
Remuneration of auditors	<u>50</u>	<u>50</u>
<b><i>Total resources received free of charge</i></b>	<b><u>50</u></b>	<b><u>50</u></b>

### Accounting Policy

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.



## Note 6: Other Information

### Note 6A: Contingent Assets and Liabilities

At 30 June 2022, the Commission had no quantifiable contingent assets or liabilities. (2021: Nil)

Contingent assets and contingent liabilities are not recognised in the statement of financial position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

### Note 6B: Financial Instruments

#### Note 6B-1: Financial Instruments - Categories of financial instruments

	2022	2021
	\$'000	\$'000
<b>Financial Assets</b>		
<b><i>Financial assets at amortised cost</i></b>		
Cash and cash equivalents	389	453
Trade receivables	<u>79</u>	<u>35</u>
<b>Total financial assets</b>	<u><b>468</b></u>	<u><b>488</b></u>
<b>Financial Liabilities</b>		
<b><i>Financial liabilities measured at amortised cost</i></b>		
Payables – suppliers	<u>581</u>	<u>328</u>
<b>Total financial liabilities</b>	<u><b>581</b></u>	<u><b>328</b></u>

### Accounting Policy

#### Financial Assets

The Commission classifies its financial assets in the following categories:

- financial assets at fair value through profit or loss;
- financial assets at fair value through other comprehensive income; and
- financial assets measured at amortised cost.

The classification depends on both the Commission's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition. Financial assets are recognised when the Commission becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

The Commission currently only has financial assets at amortised cost.

## Financial Assets at Amortised Cost

Financial assets included in this category need to meet two criteria:

1. the financial asset is held in order to collect the contractual cash flows; and
2. the cash flows are solely payments of principal and interest (SPPI) on the principal outstanding amount.

Amortised cost is determined using the effective interest method.

## Effective Interest Method

Income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

## Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period based on Expected Credit Losses, using the general approach which measures the loss allowance based on an amount equal to lifetime expected credit losses where risk has significantly increased, or an amount equal to 12-month expected credit losses if risk has not increased.

The simplified approach for trade, contract and lease receivables is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

## Financial Liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

The Commission currently only has financial liabilities at amortised cost.

## Financial Liabilities at Amortised Cost

Financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with the interest expense recognised on an effective interest basis.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

## Note 6B-2: Financial Instruments - Net gains or losses from financial assets

There were no gains or losses from financial assets at amortised cost in the year ending 30 June 2022.  
(2021: nil)

## Note 6B-3: Financial Instruments - Net gains or losses from financial liabilities

There were no gains or losses from financial liabilities at amortised cost in the year ending 30 June 2022.  
(2021: nil)

## Note 6C: Current/non-current distinction for assets and liabilities

	2022	2021
	\$'000	\$'000
<b>Assets expected to be recovered in:</b>		
<b>No more than 12 months</b>		
Cash and cash equivalents	389	453
Appropriation receivables	38,562	32,977
Trade and other receivables	104	110
Prepayments	798	467
<b>Total no more than 12 months</b>	<b>39,853</b>	<b>34,007</b>
<b>More than 12 months</b>		
Buildings	18,614	21,366
Plant and equipment	847	1,177
Computer software	1	70
<b>Total more than 12 months</b>	<b>19,462</b>	<b>22,613</b>
<b>Total assets</b>	<b>59,315</b>	<b>56,620</b>
<b>Liabilities expected to be settled in:</b>		
<b>No more than 12 months</b>		
Suppliers	581	328
Other payables	629	460
Employee provisions	2,582	2,054
Leases	2,012	1,897
<b>Total no more than 12 months</b>	<b>5,804</b>	<b>4,739</b>
<b>More than 12 months</b>		
Employee provisions	6,622	8,266
Leases	13,754	15,766
<b>Total more than 12 months</b>	<b>20,376</b>	<b>24,032</b>
<b>Total liabilities</b>	<b>26,180</b>	<b>28,771</b>

## Appendix

### Executive remuneration

Table 9 – Key management personnel, 2021-22

<i>Name</i>	<i>Position</i>	<i>Term as KMP</i>
Michael Brennan	Chair	Full year
Sam Reinhardt	Head of Office	7 months
Nina Davidson	Head of Office	3 months
Mary Cavar	Executive Manager	11 months
Anna Heaney	Acting Executive Manager	1 month
Ralph Lattimore	Executive Manager	Full year
Jane Holmes	Acting Assistant Commissioner, Corporate (CFO)	Full year

Table 10 – Key management personnel remuneration (as reported in the Notes to the Financial Statements)

<i>Benefit type</i>	<i>\$'000</i>
Short-term employee benefits	1,625
Post-employment benefits	181
Other long-term employee benefits	41
Total key management personnel remuneration expenses	1,847

Table 11 – Information about remuneration for key management personnel

Name	Position title	Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
		Base salary	Bonuses	Other benefits and allowances	Superannuation contributions	Long service leave	Other long-term benefits		
Anna Heaney	Acting Executive Manager	9,381	0	0	1,783	232	0	0	11,396
Sam Reinhardt	Head of Office	205,246	0	0	32,972	4,877	0	0	243,095
Nina Davidson	Head of Office	82,634	0	0	16,617	2,448	0	0	101,699
Mary Cavar	Executive Manager	275,152	0	0	22,258	7,081	0	0	304,491
Ralph Lattimore	Executive Manager	279,123	0	0	49,622	6,892	0	0	335,637
Jane Holmes	Acting Assistant Commissioner, Corporate (CFO)	174,647	0	0	34,118	4,577	0	0	213,342
Michael Brennan	Chair	599,000	0	0	23,708	14,652	0	0	637,360

**Note:** Base salary includes annual leave provision movement (accrued annual leave less any leave paid during the year)

Table 12 – Information about remuneration for Senior Executives and Commissioners

<i>Total remuneration bands</i>	<i>Number of senior executives</i>	<i>Short-term benefits</i>			<i>Post-employment benefits</i>	<i>Other long-term benefits</i>		<i>Termination benefits</i>	<i>Total remuneration</i>
		<i>Average base salary</i>	<i>Average bonuses</i>	<i>Average other benefits and allowances</i>	<i>Average superannuation contributions</i>	<i>Average long service leave</i>	<i>Average other long-term benefits</i>	<i>Average termination benefits</i>	<i>Average total remuneration</i>
\$0 - \$220,000	12	\$104,681	0	\$ 371	\$ 14,934	\$ 9,555	0	0	\$ 129,541
\$220,001 - \$245,000	1	\$ 167,074	0	0	\$ 12,575	\$ 47,841	0	0	\$ 227,490
\$245,001 - \$270,000	5	\$ 183,909	0	\$360	\$ 30,818	\$ 38,064	0	0	\$ 253,152
\$270,001 - \$295,000	2	\$ 234,103	0	0	\$ 45,027	\$ 7,606	0	0	\$ 286,736
\$295,001 - \$320,000	1	\$ 246,926	0	0	\$ 46,331	\$ 8,651	0	0	\$ 301,908
\$320,001 - \$345,000	1	\$ 274,595	0	0	\$ 42,596	\$ 7,942	0	0	\$ 325,134
\$345,001 - \$370,000	0	0	0	0	0	0	0	0	0
\$370,001 - \$395,000	3	\$ 320,677	0	0	\$ 29,744	\$ 37,333	0	0	\$ 387,753
\$395,001 - \$420,000	3	\$ 343,244	0	0	\$ 52,679	\$ 7,783	0	0	\$ 403,706

**Note:** 'Number of senior executives' includes Senior Executives and Commissioners during the year, excluding key management personnel. Base salary includes annual leave provision movement (accrued annual leave less any leave paid during the year).

The Commission did not pay remuneration for any 'other highly paid staff' during 2021-22.

## Accountable authority

Table 13 – Details of accountable authority during 2021-22

<i>Name</i>	<i>Position held</i>	<i>Period as the accountable authority or member within the reporting period</i>
Michael Brennan	Chair	Full year

## Resource statement

Table 14 – Entity resource statement 2021-22

	<i>Actual available appropriation - current year</i>	<i>Payments made</i>	<i>Balance remaining</i>
	<i>\$'000</i>	<i>\$'000</i>	<i>\$'000</i>
<i>Departmental</i>	<i>(a)</i>	<i>(b)</i>	<i>(a)-(b)</i>
Annual appropriations - ordinary annual services <sup>a</sup>	72,200	33,248	38,952
Total departmental annual appropriations	0	0	0
Total departmental resourcing	72,200	33,248	38,952
<b>Total resourcing and payments for entity</b>	<b>72,200</b>	<b>33,248</b>	<b>38,952</b>

a. Appropriation Act (No. 1) 2021-22. This may also include prior-year departmental appropriation and section 74 external revenue

## Human resources

Table 15 – All ongoing employees, current reporting period (2021-22)

	<i>Male</i>			<i>Female</i>			<i>Indeterminate</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
NSW	0	0	0	0	0	0	0	0	0	0
Qld	0	0	0	0	0	0	0	0	0	0
SA	0	0	0	0	0	0	0	0	0	0
Tas	0	0	0	0	0	0	0	0	0	0
Vic	35	5	40	49	14	63	0	0	0	103
WA	0	0	0	0	0	0	0	0	0	0
ACT	24	2	26	29	7	36	0	0	0	62
NT	0	0	0	0	0	0	0	0	0	0
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>59</b>	<b>7</b>	<b>66</b>	<b>78</b>	<b>21</b>	<b>99</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>165</b>

As at 30 June 2022



Table 16 – All non-ongoing employees, current reporting period (2021-22)

	<i>Male</i>			<i>Female</i>			<i>Indeterminate</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
NSW	0	0	0	0	0	0	0	0	0	0
Qld	0	0	0	0	0	0	0	0	0	0
SA	0	0	0	0	0	0	0	0	0	0
Tas	0	0	0	0	0	0	0	0	0	0
Vic	6	3	9	4	4	8	0	0	0	17
WA	0	0	0	0	0	0	0	0	0	0
ACT	0	0	0	0	0	0	0	0	0	0
NT	0	0	0	0	0	0	0	0	0	0
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	6	3	9	4	5	9	0	0	0	18

As at 30 June 2022.

Table 17 – All ongoing employees, previous reporting period (2020-21)

	<i>Male</i>			<i>Female</i>			<i>Indeterminate</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
NSW	0	0	0	0	0	0	0	0	0	0
Qld	0	0	0	0	0	0	0	0	0	0
SA	0	0	0	0	0	0	0	0	0	0
Tas	0	0	0	0	0	0	0	0	0	0
Vic	33	3	36	37	12	49	0	0	0	85
WA	0	0	0	0	0	0	0	0	0	0
ACT	24	1	25	22	11	33	0	0	0	58
NT	0	0	0	0	0	0	0	0	0	0
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	57	4	61	59	23	82	0	0	0	143

As at 30 June 2021.

Table 18 – All non-ongoing employees, previous reporting period (2020-21)

	<i>Male</i>			<i>Female</i>			<i>Indeterminate</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
NSW	0	0	0	0	0	0	0	0	0	0
Qld	0	0	0	0	0	0	0	0	0	0
SA	0	0	0	0	0	0	0	0	0	0
Tas	0	0	0	0	0	0	0	0	0	0
Vic	4	1	5	3	4	7	0	0	0	12
WA	0	0	0	0	0	0	0	0	0	0
ACT	0	0	0	1	1	2	0	0	0	2
NT	0	0	0	0	0	0	0	0	0	0
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	4	1	5	4	5	9	0	0	0	14

As at 30 June 2021.

Table 19 – Australian Public Service Act ongoing employees, current reporting period (2021-22)

	<i>Male</i>			<i>Female</i>			<i>Indeterminate</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
SES 3	0	0	0	1	0	1	0	0	0	1
SES 2	1	0	1	2	0	2	0	0	0	3
SES 1	4	0	4	10	2	12	0	0	0	16
EL 2	15	3	18	18	3	21	0	0	0	39
EL 1	13	1	14	17	7	24	0	0	0	38
APS 6	12	3	15	15	4	19	0	0	0	34
APS 5	3	0	3	11	3	14	0	0	0	17
APS 4	11	0	11	4	2	6	0	0	0	17
APS 3	0	0	0	0	0	0	0	0	0	0
APS 2	0	0	0	0	0	0	0	0	0	0
APS 1	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	59	7	66	78	21	99	0	0	0	165

As at 30 June 2022.

Table 20 – Australian Public Service Act non-ongoing employees, current reporting period (2021-22)

	<i>Male</i>			<i>Female</i>			<i>Indeterminate</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
SES 3	0	0	0	0	0	0	0	0	0	0
SES 2	0	0	0	0	0	0	0	0	0	0
SES 1	0	0	0	0	0	0	0	0	0	0
EL 2	3	1	4	-	1	1	0	0	0	5
EL 1	1	1	2	1	1	2	0	0	0	4
APS 6	1	1	2	0	1	1	0	0	0	3
APS 5	1	0	1	0	0	0	0	0	0	1
APS 4	0	0	0	1	0	1	0	0	0	1
APS 3	0	1	1	1	2	3	0	0	0	4
APS 2	0	0	0	0	0	0	0	0	0	0
APS 1	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>6</b>	<b>4</b>	<b>10</b>	<b>3</b>	<b>5</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>18</b>

As at 30 June 2022.

Table 21 – Australian Public Service Act ongoing employees, previous reporting period (2020-21)

	<i>Male</i>			<i>Female</i>			<i>Indeterminate</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
SES 3	0	0	0	1	0	1	0	0	0	1
SES 2	1	0	1	1	0	1	0	0	0	2
SES 1	4	0	4	7	2	9	0	0	0	13
EL 2	18	0	18	10	6	16	0	0	0	34
EL 1	15	2	17	15	4	19	0	0	0	36
APS 6	5	2	7	11	3	14	0	0	0	21
APS 5	10	0	10	9	3	12	0	0	0	22
APS 4	4	0	4	5	4	9	0	0	0	13
APS 3	0	0	0	0	1	1	0	0	0	1
APS 2	0	0	0	0	0	0	0	0	0	0
APS 1	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>57</b>	<b>4</b>	<b>61</b>	<b>59</b>	<b>23</b>	<b>82</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>143</b>

As at 30 June 2021.

Table 22 – Australian Public Service Act non-ongoing employees, previous reporting period (2020-21)

	<i>Male</i>			<i>Female</i>			<i>Indeterminate</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
SES 3	0	0	0	0	0	0	0	0	0	0
SES 2	0	0	0	0	0	0	0	0	0	0
SES 1	0	0	0	0	0	0	0	0	0	0
EL 2	0	0	0	0	0	0	0	0	0	0
EL 1	0	0	0	2	1	3	0	0	0	3
APS 6	2	1	3	1	1	2	0	0	0	5
APS 5	2	0	2	1	2	3	0	0	0	5
APS 4	0	0	0	0	1	1	0	0	0	1
APS 3	0	0	0	0	0	0	0	0	0	0
APS 2	0	0	0	0	0	0	0	0	0	0
APS 1	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>4</b>	<b>5</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>14</b>

As at 30 June 2021.

Table 23 – Australian Public Service Act employees by full-time and part-time status, current reporting period (2021-22)

	<i>Ongoing</i>			<i>Non-Ongoing</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
SES 3	1	0	1	0	0	0	1
SES 2	3	0	3	0	0	0	3
SES 1	14	2	16	0	0	0	16
EL 2	33	6	39	3	2	5	44
EL 1	30	8	38	2	2	4	42
APS 6	27	7	34	2	1	3	37
APS 5	14	3	17	1	0	1	18
APS 4	15	2	17	1	0	1	18
APS 3	0	0	0	1	3	4	4
APS 2	0	0	0	0	0	0	0
APS 1	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>137</b>	<b>28</b>	<b>165</b>	<b>10</b>	<b>8</b>	<b>18</b>	<b>183</b>

As at 30 June 2022.

Table 24 – Australian Public Service Act employees by full-time and part-time status, previous reporting period (2020-21)

	<i>Ongoing</i>			<i>Non-Ongoing</i>			<i>Total</i>
	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>	
SES 3	1	0	1	0	0	0	1
SES 2	2	0	2	0	0	0	2
SES 1	11	2	13	0	0	0	13
EL 2	28	6	34	0	0	0	34
EL 1	30	6	36	2	1	3	39
APS 6	16	5	21	3	2	5	26
APS 5	19	3	22	3	2	5	27
APS 4	9	4	13	0	1	1	14
APS 3	0	1	1	0	0	0	1
APS 2	0	0	0	0	0	0	0
APS 1	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0
<b>TOTAL</b>	116	27	143	8	6	14	157

As at 30 June 2021.

Table 25 – Australian Public Service Act employment type by location, current reporting period (2021-22)

	<i>Ongoing</i>	<i>Non-Ongoing</i>	<i>Total</i>
NSW	0	0	0
Qld	0	0	0
SA	0	0	0
Tas	0	0	0
Vic	103	17	120
WA	0	0	0
ACT	62	1	63
NT	0	0	0
External Territories	0	0	0
Overseas	0	0	0
<b>TOTAL</b>	165	18	183

As at 30 June 2022.

Table 26 – Australian Public Service Act employment type by location, previous reporting period (2020-21)

	<i>Ongoing</i>	<i>Non-Ongoing</i>	<i>Total</i>
NSW	0	0	0
Qld	0	0	0
SA	0	0	0
Tas	0	0	0
Vic	85	12	97
WA	0	0	0
ACT	28	2	60
NT	0	0	0
External Territories	0	0	0
Overseas	0	0	0
<b>TOTAL</b>	143	14	157

As at 30 June 2021.

Table 27 – Australian Public Service Act Indigenous employment

	<i>Current reporting period (2021-22)</i>	<i>Previous reporting period (2020-21)</i>
Ongoing	4	1
Non-Ongoing	0	0
<b>TOTAL</b>	4	1

As at 30 June 2022 and 2021, respectively.

Table 28 – Australian Public Service Act employment arrangements, current reporting period (2021-22)

	<i>SES</i>	<i>Non-SES</i>	<i>Total</i>
S.24 Determination	17	0	17
Individual Flexibility Arrangements (IFA)	1	9	10
Enterprise Agreement (EA)	0	166	166
<b>TOTAL</b>	17	166	183

As at 30 June 2022.

Table 29 – Australian Public Service Act employment salary ranges by classification level (minimum/maximum), current reporting period (2021-22)

	<i>Minimum Salary</i>	<i>Maximum Salary</i>
SES 3	331,500	359,563
SES 2	261,157	292,832
SES 1	183,060	248,036
EL 2	125,782	171,603
EL 1	103,738	136,989
APS 6	81,904	99,926
APS 5	75,159	87,350
APS 4	67,084	81,898
APS 3	59,229	72,675
APS 2	51,990	60,096
APS 1	44,475	50,628
Other	0	0
<b>Minimum/Maximum range</b>	<b>44,475</b>	<b>359,563</b>

As at 30 June 2022.

Table 30 – Australian Public Service Act employment performance pay by classification level, current reporting period (2021-22)

	<i>Number of employees receiving performance pay</i>	<i>Aggregated (sum total) of all payments made</i>	<i>Average of all payments made</i>	<i>Minimum payment made to employees</i>	<i>Maximum payment made to employees</i>
SES 3	0	\$0	\$0	\$0	\$0
SES 2	0	\$0	\$0	\$0	\$0
SES 1	0	\$0	\$0	\$0	\$0
EL 2	0	\$0	\$0	\$0	\$0
EL 1	0	\$0	\$0	\$0	\$0
APS 6	0	\$0	\$0	\$0	\$0
APS 5	0	\$0	\$0	\$0	\$0
APS 4	0	\$0	\$0	\$0	\$0
APS 3	0	\$0	\$0	\$0	\$0
APS 2	0	\$0	\$0	\$0	\$0
APS 1	0	\$0	\$0	\$0	\$0
Other	0	\$0	\$0	\$0	\$0
<b>TOTAL</b>	<b>0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>





## Indexes

### Annual reporting requirements and aids to access

Information contained in this annual report is provided in accordance with Schedule 2 Part 4 of the *Work Health and Safety Act 2011*, section 46 of the *Public Governance, Performance and Accountability Act 2013* and Part II of the *Freedom of Information Act 1982*.

The entire report is provided in accordance with section 10 of the *Productivity Commission Act 1998*. The annual report has also been prepared in accordance with parliamentary requirements for departmental annual reports issued by the Department of Finance. A compliance index is provided in the Indexes.

The contact officer for enquiries or comments concerning this report is:

Assistant Commissioner, Corporate  
Productivity Commission  
Locked Bag 2, Collins Street East Post Office  
MELBOURNE VIC 8003  
Telephone: (03) 9653 2251

This annual report can be found at [www.pc.gov.au/about/governance/annual-reports](http://www.pc.gov.au/about/governance/annual-reports). Enquiries about any Commission publication can be made to:

Director  
Media, Publications and Web  
Productivity Commission  
GPO Box 1428  
CANBERRA CITY ACT 2601  
Telephone: (02) 6240 3239  
Email: [mpw@pc.gov.au](mailto:mpw@pc.gov.au)

Table 31 – Aids to access details, current reporting period (2021-22)

Annual Report contact officer (title/position held)	Assistant Commissioner, Corporate
Contact phone number	(03) 9653 2251
Contact email	<a href="mailto:mpw@pc.gov.au">mpw@pc.gov.au</a>
Entity website (URL)	<a href="https://www.pc.gov.au">https://www.pc.gov.au</a>

## List of requirements – non-corporate Commonwealth entities

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>
17AD(g)	<i>Letter of transmittal</i>		
17AI	p.iii	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory
17AD(h)	<i>Aids to access</i>		
17AJ(a)	p. vii-viii	Table of contents.	Mandatory
17AJ(b)	p. 80-82	Alphabetical index.	Mandatory
17AJ(c)	p. 83	Glossary of abbreviations and acronyms.	Mandatory
17AJ(d)	p. 74-80	List of requirements.	Mandatory
17AJ(e)	p. 73	Details of contact officer.	Mandatory
17AJ(f)	p. 73	Entity's website address.	Mandatory
17AJ(g)	p. 73	Electronic address of report.	Mandatory
17AD(a)	<i>Review by accountable authority</i>		
17AD(a)	p. iii	A review by the accountable authority of the entity.	Mandatory
17AD(b)	<i>Overview of the entity</i>		
17AE(1)(a)(i)	p. 1	A description of the role and functions of the entity.	Mandatory
17AE(1)(a)(ii)	p. 2-3	A description of the organisational structure of the entity.	Mandatory
17AE(1)(a)(iii)	p. 2	A description of the outcomes and programmes administered by the entity.	Mandatory
17AE(1)(a)(iv)	p. 1	A description of the purposes of the entity as included in corporate plan.	Mandatory
17AE(1)(aa)(i)	p. 64	Name of the accountable authority or each member of the accountable authority.	Mandatory
17AE(1)(aa)(ii)	p. 64	Position of the accountable authority or each member of the accountable authority.	Mandatory
17AE(1)(aa)(iii)	p. 64	Period as the accountable authority or member of the accountable authority within the reporting period.	Mandatory
17AE(1)(b)	N/A	An outline of the structure of the portfolio of the entity.	Portfolio departments - mandatory
17AE(2)	N/A	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, Mandatory

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>
17AD(c)	<i>Report on the Performance of the entity Annual performance Statements</i>		
17AD(c)(i); 16F	p. 5-9	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory
17AD(c)(ii)	<i>Report on Financial Performance</i>		
17AF(1)(a)	p. 29	A discussion and analysis of the entity's financial performance.	Mandatory
17AF(1)(b)	p. 64	A table summarising the total resources and total payments of the entity.	Mandatory
17AF(2)	N/A	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, Mandatory.
17AD(d)	<i>Management and Accountability Corporate Governance</i>		
17AG(2)(a)	p. iii, 24	Information on compliance with section 10 (fraud systems)	Mandatory
17AG(2)(b)(i)	p. iii	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory
17AG(2)(b)(ii)	p. iii	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory
17AG(2)(b)(iii)	p. iii	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory
17AG(2)(c)	p. 22-25	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory
17AG(2)(d) – (e)	N/A	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance.	If applicable, Mandatory
	<i>Audit Committee</i>		
17AG(2A)(a)	p. 23	A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory
17AG(2A)(b)	p. 24	The name of each member of the entity's audit committee.	Mandatory

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>
17AG(2A)(c)	p. 24	The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory
17AG(2A)(d)	p. 24	Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory
17AG(2A)(e)	p. 24	The remuneration of each member of the entity's audit committee.	Mandatory
<b>External Scrutiny</b>			
17AG(3)	p. 25	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory
17AG(3)(a)	N/A	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, Mandatory
17AG(3)(b)	p. 25	Information on any reports on operations of the entity by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, Mandatory
17AG(3)(c)	N/A	Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory
<b>Management of Human Resources</b>			
17AG(4)(a)	p. 26-29	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory
17AG(4)(aa)	p. 64-66	Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following: <ul style="list-style-type: none"> <li>• statistics on full-time employees;</li> <li>• statistics on part-time employees;</li> <li>• statistics on gender;</li> <li>• statistics on staff location.</li> </ul>	Mandatory
17AG(4)(b)	p. 66-71	Statistics on the entity's APS employees on an ongoing and non-ongoing basis, including the following: <ul style="list-style-type: none"> <li>• Statistics on staffing classification level;</li> <li>• Statistics on full-time employees;</li> <li>• Statistics on part-time employees;</li> <li>• Statistics on gender;</li> <li>• Statistics on staff location;</li> <li>• Statistics on employees who identify as Indigenous.</li> </ul>	Mandatory
17AG(4)(c)	p. 26, 70	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	Mandatory

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>
17AG(4)(c)(i)	p. 70	Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory
17AG(4)(c)(ii)	p. 71	The salary ranges available for APS employees by classification level.	Mandatory
17AG(4)(c)(iii)	p. 26	A description of non-salary benefits provided to employees.	Mandatory
17AG(4)(d)(i)	p. 71	Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory
17AG(4)(d)(ii)	p. 71	Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory
17AG(4)(d)(iii)	p. 71	Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory
17AG(4)(d)(iv)	p. 71	Information on aggregate amount of performance payments.	If applicable, Mandatory
<b>Assets Management</b>			
17AG(5)	N/A	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.	If applicable, Mandatory
<b>Purchasing</b>			
17AG(6)	p. 30	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	Mandatory
<b>Reportable consultancy contracts</b>			
17AG(7)(a)	p. 30	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory
17AG(7)(b)	p. 30	A statement that “During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]”.	Mandatory
17AG(7)(c)	p. 30	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory

<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>
17AG(7)(d)	p. 30	A statement that <i>“Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.”</i>	Mandatory
<i>Reportable non-consultancy contracts</i>			
17AG(7A)(a)	p. 31	A summary statement detailing the number of new reportable non-consultancy contracts entered into during the period; the total actual expenditure on such contracts (inclusive of GST); the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST).	Mandatory
17AG(7A)(b)	p. 31	A statement that <i>“Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.”</i>	
<i>Additional information about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts</i>			
17AGA	p. 31	Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts.	Mandatory
<i>Australian National Audit Office Access Clauses</i>			
17AG(8)	p. 30	If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor’s premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	If applicable, Mandatory
<i>Exempt contracts</i>			
17AAG(9)	N/A	If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	If applicable, Mandatory



<b>PGPA Rule Reference</b>	<b>Part of Report</b>	<b>Description</b>	<b>Requirement</b>
<b>Small business</b>			
17AG(10)(a)	p. 30	A statement that “[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance’s website.”	Mandatory
17AG(10)(b)	p. 30	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory
17AG(10)(c)	N/A	If the entity is considered by the Department administered by the Finance Minister as material in nature — a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	If applicable, Mandatory
<b>Financial Statements</b>			
17AD(e)	p. 33-60	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory
<b>Executive Remuneration</b>			
17AD(da)	p. 64-66	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule.	Mandatory
17AD(f)	<b>Other Mandatory Information</b>		
17AH(1)(a)(i)	N/A	If the entity conducted advertising campaigns, a statement that “During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”	If applicable, Mandatory
17AH(1)(a)(ii)	p. 32	If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory
17AH(1)(b)	N/A	A statement that “Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”	If applicable, Mandatory

<b><i>PGPA Rule Reference</i></b>	<b><i>Part of Report</i></b>	<b><i>Description</i></b>	<b><i>Requirement</i></b>
17AH(1)(c)	p. 32	Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory
17AH(1)(d)	p. 32	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory
17AH(1)(e)	N/A	Correction of material errors in previous annual report.	If applicable, mandatory
17AH(2)	p. 31-32	Information required by other legislation.	Mandatory

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## Abbreviations

<b>AASB</b>	Australian Accounting Standards Board
<b>AGCNCO</b>	Australian Government Competitive Neutrality Complaints Office
<b>ANAO</b>	Australian National Audit office
<b>APS</b>	Australian Public Service
<b>CSS</b>	Commonwealth Superannuation Scheme
<b>ESD</b>	Ecologically Sustainable Development
<b>FBT</b>	Fringe Benefit Taxes
<b>FOI Act</b>	<i>Freedom of Information Act 1982</i>
<b>GAICD</b>	Graduate of the Australian Institute of Company Directors'
<b>NSW</b>	New South Wales
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>OID</b>	Overcoming Indigenous Disadvantage
<b>PGPA Act</b>	<i>Public Governance, Performance and Accountability Act 2013</i>
<b>PSS</b>	Public Sector Superannuation
<b>RDR</b>	reduced disclosure requirements
<b>ROGS</b>	Report on Government Services
<b>ROU</b>	Right of Use
<b>SES</b>	Senior Executive Service
<b>WHS</b>	Work Health and Safety



# Corporate Plan 2022-23

The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

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## The Productivity Commission

**The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.**

**The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.**

**Further information on the Productivity Commission can be obtained from the Commission's website ([www.pc.gov.au](http://www.pc.gov.au)).**

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## From the Chair

**The Productivity Commission, through its research, analysis and advice seeks to promote improved performance of the Australian economy and higher living standards for Australians**

Productivity growth, broadly conceived, remains the only reliable long-term path to higher incomes and standards of living. The recent slowdown in productivity growth and the significant economic challenges brought about by the Coronavirus (COVID-19) pandemic, highlight the continued need for strong evidence-based policy analysis and advice.



This goes to the heart of the Commission's role, including microeconomic reform, in areas like regulation, infrastructure, trade policy and productivity research. It also includes our work in respect of non-market sectors of the economy such as health, school education and skills.

In 2022-23 and the forward years, the Commission will continue to examine a variety of economic, social and environmental issues through its public inquiry and commissioned research. Commissioned projects underway include public inquiries into Productivity, Carers Leave, and Australia's Maritime Logistics System, and studies into Aboriginal and Torres Strait Islander Visual Arts and Crafts, Aged Care Employment, the National Housing and Homelessness Agreement, and the National Schools Reform Agreement.

We will continue to focus our self-initiated research on policy relevant topics as and when our inquiry and study program permits. We will continue to fulfil our legislated roles to investigate competitive neutrality complaints, and report on water plans and initiatives nationally and in the Murray-Darling Basin. We will also continue to upgrade and refine our reporting on the performance of government services, and promote public understanding of matters relating to industry, industry development and productivity.

The Commission has a significant role under the National Agreement on Closing the Gap. We have developed and are maintaining a publicly accessible dashboard and information repository to inform reporting on progress. We have also commenced the first of a series of three-yearly independent reviews of progress on Closing the Gap, which will be complementary to a three-yearly Aboriginal and Torres Strait Islander-led review. Our first review is due to be presented to the Joint Council on Closing the Gap by the end of 2023.

The quality and integrity of our work relies heavily on the capability and commitment of our people, and we continue to invest in their ongoing professional development. This includes enhancing our cultural capability — and adapting our ways of thinking and working — to better engage and work with Aboriginal and Torres Strait Islander people. Our approach will continue to evolve over time.

The *2022-23 Productivity Commission Corporate Plan*, for the four reporting periods 2022-23 to 2025-26, is presented in accordance with Section 35(1)(a) of the *Public Governance, Performance and Accountability Act 2013*. The plan will be reviewed annually to reflect changes in our operating environment.

**Michael Brennan**  
Chair

## Our purpose

The Commission's purpose, as embodied in the *Productivity Commission Act 1998*, is to provide Governments and the Australian community with information and advice that better inform policy decisions to improve Australians' wellbeing. To do this we apply robust, transparent analysis; and we adopt a community-wide perspective.

## What we do

The Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians.

The Commission is an advisory body. We do not administer government programs or exercise executive power. We contribute by providing quality, independent advice and information to governments, and through the communication of ideas and analysis.

The Commission is an independent agency of the Australian Government, located within the Treasury portfolio. Our activities cover all levels of government and encompass all sectors of the economy, as well as social and environmental issues.

Our core function is to conduct public inquiries at the request of the Australian Government on key policy or regulatory issues bearing on Australia's economic performance and community wellbeing. And we have a role in promoting public understanding of matters relating to industry, industry development and productivity.

The Commission also acts as secretariat to the inter-governmental Review of Government Service Provision; has review functions in respect of national water planning; has functions to contribute to better evaluation of policies and programs affecting Aboriginal and Torres Strait Islander people; has a role in supporting oversight and accountability under the National Agreement for Closing the Gap; has review functions in respect of nationally significant sector-wide inter-governmental agreements; and has a role in advising and investigating complaints on the competitive neutrality of Commonwealth Government business activities.

## How we work

We are evidence based in our research and analysis, which requires us to maintain strong consultation and engagement capabilities.



### We operate independently

The Commission operates under the powers, protection and guidance of its own legislation. Its independence is formally exercised under the *Productivity Commission Act 1998* through the Chair and Commissioners, who are appointed by the Governor-General for fixed periods.

The Commission has its own budgetary allocation and permanent staff, operating at arm's length from other government agencies. While the Government initiates our major tasks, our findings and recommendations are always based on our own analysis and judgments.



### Our processes are transparent

Our inquiry reports and research studies are all open to public scrutiny. We publish all our working papers and models which have contributed to our conclusions. We run public hearings on our draft reports, and we use roundtables and seminars to seek informed input.

## Our environment

Productivity enhancing reform will continue to be necessary for Australia to be able to maintain growth in living standards and meet additional challenges, including the ageing of the population.

We are but one source of policy advice to Australian Governments. However, successive Australian Governments, have sought our independent advice on better public policy design. Typically, those areas are contentious, complex or may have a significant impact on different groups within the community.

We expect to operate in such an environment for each reporting period covered by the plan.

## Our capability

We seek to maintain a capability that provides rigour of analysis, transparency of process, and independence and balance in our conclusions.

Our major source of funding is from the Australian Government for operating expenses of approximately \$36 million per year, and our average staffing level is expected to be around 180 for the period of this plan. We expect our capability to be relatively stable for each reporting period covered by the plan.

While we need to maintain our infrastructure and technical support, the majority of this funding will continue to be directed towards attracting and retaining high calibre staff that provide the intellectual and analytical capability that we need to maintain the quality of our work. This includes ensuring our modelling capabilities are fit for purpose for policy relevant research.

Flexible resource allocation to make the best use of our capabilities will be a continuing priority for the management group.

We will also maintain our capability to engage effectively and openly with all interested parties to inform high quality analysis and policy advice. And we will continue to develop our cultural capability — including our understanding of and responsiveness to Aboriginal and Torres Strait Islander people, their cultures, histories, knowledges, and perspectives — to engage and work more effectively with Aboriginal and Torres Strait Islander people.

Further, we will continue to develop our capacity to promote the outcomes of our work through different media during the period of this plan.

## Our management of risk

The Chair of the Commission is the accountable authority.

Our risk management plan sets out our approach to managing our risks. We maintain an active risk register, and an external judgment capability on our Audit and Risk Committee. We intend to maintain these systems each reporting period covered by the plan.

We face risks associated with public criticism, given the work we do on issues characterised by strong and vocal interests.

Aside from this — an inherent part of the task — the risks that really matter to us are maintaining our reputation, via the quality of our work, and ensuring that our consultation processes remain relevant. Our key strategy for dealing with these risks is to test our propositions openly, through extensive engagement with interested parties and the public.

We also have risks related to attraction and retention of quality staff. Maintaining capacity and capability will be a constant management focus over the course of the plan.

## Our performance

The outcome objective against which our overall performance is assessed is:

Well-informed policy decision making and public understanding on matters relating to Australia's productivity and living standards, based on independent and transparent analysis from a community-wide perspective.

Assessment of our performance is complicated by our being one contributor among many to any policy outcome. Furthermore, as our public inquiry and research outputs contribute to public debate and policy development across a range of complex and often contentious issues, our contribution is best considered over the medium term.

Government decisions in response to our inquiry reports and commissioned research studies provide a tangible indication of their usefulness to government, parliaments, and the broader community.

Even when our specific recommendations are not supported by government, our reports and analysis can play a significant role in informing governments, parliaments, and the community about the trade-offs in different policy choices.

We aim to complete projects, reports and associated activities that are of a high quality, useful, comprehensive, and timely.

A summary of our performance framework is illustrated below.

<b>Our purpose</b>	<b>Well-informed policy decision making and public understanding relating to Australia's productivity and living standards</b>			
<b>What we do</b>	<b>Inquiries</b> Government commissioned public inquiries	<b>Research</b> Government commissioned and self-initiated research	<b>Performance reporting and analysis</b> Commissioned by Governments	
<b>How we do it</b>	<b>Transparency</b>	<b>Robust analysis</b>	<b>Community-wide perspective</b>	<b>Clear and engaging communication</b>
<b>Our performance criteria</b>	<b>Impact</b> <ul style="list-style-type: none"> <li>Valuable source of robust evidence-based analysis to inform public policy in Australia</li> <li>Generating effective public debate</li> <li>Recognition that our approach to evidence-based policy analysis is worthy of consideration by other governments</li> </ul> <b>Delivery</b> <ul style="list-style-type: none"> <li>Engaging effectively with the community</li> <li>Open and transparent processes</li> <li>Timely reporting</li> </ul>			
<b>Our core capabilities</b>	<b>High calibre staff</b>		<b>Systems and support to engage effectively</b>	

## Indicators

Indicators of performance include: our work being widely referenced in public policy forums; projects and reports meeting commissioned timelines; and open and transparent processes being followed. We rely mainly on qualitative indicators given the nature of our work.

We will continue to report annually against these indicators, as well as other general assessments of our performance that may be evident from year to year, including drawing from internal evaluation and using case studies. Every three years we conduct a survey of policy makers, inquiry participants and peers to help gauge the relevance, analytical rigour and clarity of our work, as well the effectiveness of our participatory processes, our openness and transparency. The first survey was conducted in 2017-18, and the second was undertaken in the first half of 2021. The results were captured in our Annual Reports.

Our individual topic reports also record the extent of consultation with, and participation by, interested parties, and the extent of peer review.

A range of indicators will inform our performance assessment as illustrated below.

Our performance assessment will be informed by survey responses and review of other indicators		Frequency
Impact	<b>The Productivity Commission is a valuable source of robust evidence-based analysis to inform public policy in Australia</b> <ul style="list-style-type: none"> <li>Survey responses (Qualitative)</li> <li>Number of major projects commissioned by government (Quantitative)</li> </ul>	Triennial Annual
	<b>The Productivity Commission generates effective public debate</b> <ul style="list-style-type: none"> <li>Survey responses (Qualitative)</li> <li>Composite indicator of success in generating effective public debate (Qualitative) based on internal review for each report of: <ul style="list-style-type: none"> <li>degree of acceptance of recommendations</li> <li>media mentions</li> <li>mentions in Parliament</li> <li>report downloads</li> </ul> </li> <li>Requests to present (Quantitative)</li> </ul>	Triennial Annual  Annual
	<b>The Productivity Commission is recognised as a model for evidence-based policy analysis worthy of consideration by other governments</b> <ul style="list-style-type: none"> <li>Views of international bodies and interest from other governments in PC approach (Qualitative)</li> </ul>	Periodic
Delivery	<b>The Productivity Commission engages effectively with the community</b> <ul style="list-style-type: none"> <li>Survey responses (Qualitative)</li> <li>Composite indicator or opportunity for public participation (Qualitative) based on internal review for each project of engagement including: <ul style="list-style-type: none"> <li>holding of public hearings</li> <li>holding of roundtable discussions</li> <li>holding of workshops with technical experts</li> <li>use of issues paper, draft report and two rounds of submissions</li> </ul> </li> <li>Composite indicator of effective engagement with Aboriginal and Torres Strait Islander people and organisations (Qualitative) including: <ul style="list-style-type: none"> <li>extent of participation by Aboriginal and Torres Strait Islander people and organisations</li> <li>two-way exchange with Aboriginal and Torres Strait Islander people and organisations</li> <li>use of relevant communication tools and approaches.</li> </ul> </li> </ul>	Triennial Annual  Annual
	<b>The Productivity Commission's processes are open and transparent</b> <ul style="list-style-type: none"> <li>Survey responses (Qualitative)</li> <li>Key data sets and/or modelling made available (Qualitative)</li> </ul>	Triennial Annual
	<b>The Productivity Commission delivers reports within agreed timeframes</b> <ul style="list-style-type: none"> <li>Number of reports delivered on time (Quantitative)</li> </ul>	Annual

# **Productivity Commission**

## **Entity resources and planned performance**





# Productivity Commission

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# Productivity Commission

## Section 1: Entity overview and resources

### 1.1 Strategic direction statement

The Productivity Commission (the Commission) is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. The Commission's work encompasses all sectors of the economy as well as social and environmental issues. Its activities cover all levels of government responsibility – Federal, State and Territory and Local.

As a review and advisory body, the Commission does not have responsibility for implementing government programs. It carries out inquiry, research, advising and incidental functions prescribed under the *Productivity Commission Act 1998*.

The Commission contributes to well-informed policy decision-making and public understanding on matters relating to Australia's economic performance and community wellbeing, based on independent and transparent analysis that takes a broad view encompassing the interests of the community as a whole, rather than just particular industries or groups. The Commission has four broad components of work:

- government commissioned projects
- performance reporting and other services to government bodies
- competitive neutrality complaints activities
- self initiated-research and statutory annual reporting.

In 2022–23 and the forward years, the Commission will continue to examine a variety of economic, social and environmental issues through its public inquiry and commissioned research. Commissioned projects underway include public inquiries into *Australia's Productivity Performance (The Productivity Inquiry)*, *Carers Leave*, and *Australia's Maritime Logistics System*, and studies into *Aboriginal and Torres Strait Islander Visual Arts and Crafts*, and the *National Schools Reform Agreement*.

The Commission will also operate the Performance Reporting Dashboard and undertake further reviews of nationally significant sector – wide Commonwealth-State agreements. In addition, the Commission will fulfil the legislated role to report on water plans and initiatives nationally and in the Murray-Darling Basin.

The Commission will continue to provide cross-jurisdictional reporting on the performance of government services; indicators of disadvantage experienced by Aboriginal and Torres Strait Islander people; and expenditure on services to Aboriginal and Torres Strait Islander people.

As part of its functions under the *National Agreement on Closing the Gap*, the Commission has developed and maintains a publicly accessible dashboard and annual data compilation report, underpinned by an information repository to inform reporting on progress on Closing the Gap. The Commission has also commenced the first independent review of progress, which will be complementary to an Aboriginal and Torres Strait Islander led review. Both reviews happen every three years.

The Australian Government Competitive Neutrality Complaints Office (AGCNCO) is an autonomous office located within the Commission. It receives and investigates complaints and advises the Treasurer on the application of competitive neutrality arrangements. AGCNCO also provides informal advice on, and assists agencies in, implementing competitive neutrality requirements.

The Commission has a mandate to undertake research to complement its other activities. A full list of the Commission's research reports and supporting research is provided on the Commission's website.

## 1.2 Entity resource statement

Table 1.1 shows the total funding from all sources available to the entity for its operations and to deliver programs and services on behalf of the Government.

The table summarises how resources will be applied by outcome (government strategic policy objectives) and by administered (on behalf of the Government or the public) and departmental (for the entity's operations) classification.

For more detailed information on special accounts and special appropriations, please refer to the October *Budget Paper No. 4 – Agency Resourcing*.

Information in this table is presented on a resourcing (that is, appropriations/cash available) basis, whilst the 'Budgeted expenses by Outcome 1' tables in Section 2 and the financial statements in Section 3 are presented on an accrual basis.

**Table 1.1: Productivity Commission resource statement – Budget estimates for 2022–23 as at October Budget 2022**

	2021-22 Estimated actual \$'000	2022-23 Estimate \$'000
<b>Departmental</b>		
Annual appropriations – ordinary annual services (a)		
Prior year appropriations available (b)	38,951	39,713
Departmental appropriation (c)	36,616	37,104
s74 Retained revenue receipts (d)	293	10
Departmental capital budget (e)	829	834
Total departmental annual appropriations	76,689	77,661
<b>Total departmental resourcing</b>	<b>76,689</b>	<b>77,661</b>
<b>Total resourcing for the Productivity Commission</b>	<b>76,689</b>	<b>77,661</b>
	2021-22	2022-23
<b>Average staffing level (number)</b>	164	192

All figures shown above are GST exclusive – these may not match figures in the cash flow statement.

Prepared on a resourcing (that is, appropriations available) basis.

- a) Appropriation Bill (No. 1) 2022–23, Supply Bill (No. 3) 2022–23 and *Supply Act (No. 1) 2022–23*.
- b) Estimated adjusted balance carried forward from previous year.
- c) Excludes departmental capital budget (DCB).
- d) Estimated External Revenue receipts under section 74 of the PGPA Act.
- e) Departmental capital budgets are not separately identified in Appropriation Bill (No. 1) and form part of ordinary annual services items. Please refer to Table 3.5 for further details. For accounting purposes, this amount has been designated as a 'contribution by owner'.

### 1.3 Budget measures

Budget measures in Part 1 relating to entity Productivity Commission are detailed in the October Budget Paper No. 2 and are summarised below.

**Table 1.2: Productivity Commission October 2022–23 Budget measures**  
**Part 1: Measures announced since the 2022–23 March Budget**

	Program	2021-22 \$'000	2022-23 \$'000	2023-24 \$'000	2024-25 \$'000	2025-26 \$'000
<b>Payment measures</b>						
An Ambitious and Enduring APS Reform Plan (a)	1.1					
Departmental payment		-	(13)	(37)	(45)	-
Savings from External Labour, and Savings from Advertising, Travel and Legal Expenses (b)	1.1					
Departmental payment		-	(301)	-	-	-
<b>Total</b>		-	<b>(314)</b>	<b>(37)</b>	<b>(45)</b>	-
<b>Total payment measures</b>						
Departmental		-	(314)	(37)	(45)	-
<b>Total</b>		-	<b>(314)</b>	<b>(37)</b>	<b>(45)</b>	-

Prepared on a Government Finance Statistics (Underlying Cash) basis. Figures displayed as a negative (-) represent a decrease in funds and a positive (+) represent an increase in funds.

- a) The lead entity for measure An Ambitious and Enduring APS Reform Plan is the Department of Prime Minister and Cabinet. The full measure description and package details appear in Budget Paper No. 2, *Budget Measures 2022–23*, under the Prime Minister and Cabinet portfolio.
- b) The measure Savings from External Labour, and Savings from Advertising, Travel and Legal Expenses is a cross-portfolio measure. The full measure description and package details appear in Budget Paper No. 2, *Budget Measures 2022–23*, under Cross Portfolio measures.

## Section 2: Outcomes and planned performance

Government outcomes are the intended results, impacts or consequences of actions by the Government on the Australian community. Commonwealth programs are the primary vehicle by which government entities achieve the intended results of their outcome statements. Entities are required to identify the programs which contribute to government outcomes over the Budget and forward years.

The Commission's outcome is described below together with its related programs. The following provides detailed information on expenses for each outcome and program, further broken down by funding source.

**Note:**

Performance reporting requirements in the Portfolio Budget Statements are part of the Commonwealth performance framework established by the *Public Governance, Performance and Accountability Act 2013*. It is anticipated that the performance measure described in Portfolio Budget Statements will be read with broader information provided in an entity's corporate plans and annual performance statements – included in Annual Reports – to provide a complete picture of an entity's planned and actual performance.

The most recent corporate plan for the Commission can be found at:  
(<https://www.pc.gov.au/about/governance/corporate-plan>).

The most recent annual performance statement can be found at:  
(<https://www.pc.gov.au/about/governance/annual-reports>).

## 2.1 Budgeted expenses and performance for Outcome 1

**Outcome 1: Well-informed policy decision-making and public understanding on matters relating to Australia's productivity and living standards, based on independent and transparent analysis from a community-wide perspective.**

### Budgeted expenses for Outcome 1

This table shows how much the Commission intends to spend (on an accrual basis) on achieving the outcome.

**Table 2.1: Budgeted expenses for Outcome 1**

	2021-22 Estimated actual \$'000	2022-23 Budget \$'000	2023-24 Forward estimate \$'000	2024-25 Forward estimate \$'000	2025-26 Forward estimate \$'000
<b>Program 1.1: Productivity Commission</b>					
Departmental expenses					
Departmental appropriation	31,189	37,344	37,366	37,533	37,841
s74 Retained revenue receipts (a)	293	10	10	10	10
Expenses not requiring appropriation in the Budget year (b)	1,020	1,100	1,100	1,100	1,100
<b>Departmental total</b>	<b>32,502</b>	<b>38,454</b>	<b>38,476</b>	<b>38,643</b>	<b>38,951</b>
<b>Total expenses for program 1.1</b>	<b>32,502</b>	<b>38,454</b>	<b>38,476</b>	<b>38,643</b>	<b>38,951</b>
<b>Total expenses for Outcome 1</b>	<b>32,502</b>	<b>38,454</b>	<b>38,476</b>	<b>38,643</b>	<b>38,951</b>
	2021-22	2022-23			
<b>Average staffing level (number)</b>	<b>164</b>	<b>192</b>			

a) Estimated expenses incurred in relation to receipts retained under section 74 of the PGPA Act.

b) Expenses not requiring appropriation in the Budget year are made up of depreciation expenses, amortisation expenses, make good expenses, audit fees and other resources received free of charge.

Note: Departmental appropriation splits and totals are indicative estimates and may change in the course of the budget year as government priorities change.



**Table 2.2: Performance measure for Outcome 1**

Table 2.2 details the performance measures for the program associated with Outcome 1. It also provides the related key activities as expressed in the current Corporate Plan where further detail is provided about the delivery of the activities related to the program, the context in which these activities are delivered and how the performance of these activities will be measured. Where relevant, details of the October 2022–23 Budget measures that have created new programs or materially changed existing programs are provided.

<b>Outcome 1 – Well-informed policy decision-making and public understanding on matters relating to Australia's productivity and living standards, based on independent and transparent analysis from a community-wide perspective</b>		
<b>Program 1.1 – The Commission provides governments and the Australian community with information and advice that better informs policy decisions to improve Australians' wellbeing.</b>		
<b>Key Activities</b>	The Commission undertakes inquiries, research, and performance reporting on government services. It provides robust analysis and advice on a range of economic, social and environmental issues, taking a community wide perspective. The Commission engages widely, including through hearings, release of draft reports, roundtables, seminars and submissions, to seek informed input to its reports.	
<b>Year</b>	<b>Performance measures</b>	<b>Expected Performance Results</b>
Prior year 2021–22	Providing a valuable source of robust evidence-based analysis	The demand for the Commission to undertake work on complex policy issues has continued and increased significantly and its work has proved highly relevant to government policy deliberations.
	Generating effective public debate	Contributions to parliamentary debate and the extent of media coverage indicate a high level of public interest in the Commission's work and its potential influence.
	Being recognised as valuable by other governments	The Commission engaged and exchanged research ideas with officials from multiple international organisations and countries.
	Engaging effectively with the community	The Commission's processes provided opportunities for extensive public input and feedback through visits, hearings, workshops and other consultative forums, and the release of draft reports and preliminary findings.
	Having open and transparent processes	The Commission's advice to Government, and the information and analysis on which it is based, continued to be open to public scrutiny.
	Delivering timely reports	All the major projects that were completed in 2021–22 were finished within the timeframes originally established by the Government. Further information can be found in the Commission's <i>Annual Performance Statement</i> ( <a href="https://www.pc.gov.au/about/governance/annual-reports">https://www.pc.gov.au/about/governance/annual-reports</a> ).

**Table 2.2: Performance measure for Outcome 1 (continued)**

<b>Year</b>	<b>Performance measures</b>	<b>Planned Performance Results</b>
Budget Year 2022–23	As per 2021–22	In 2022–23, the Commission expects to continue to deliver robust policy advice to contribute to public debate and inform government decisions.
Forward Estimates 2023–26	As per 2022–23	As per 2022–23
Material changes to Program 1.1 resulting from October 2022–3 Budget Measure: Nil		

## **Section 3: Budgeted financial statements**

Section 3 presents budgeted financial statements which provide a comprehensive snapshot of entity finances for the 2022–23 budget year, including the impact of budget measures and resourcing on financial statements.

### **3.1 Budgeted financial statements**

#### **3.1.1 Differences between entity resourcing and financial statements**

There are not material differences between entity resourcing and financial statements.

#### **3.1.2 Explanatory notes and analysis of budgeted financial statements**

The Commission is budgeting for a break-even result in 2022–23 and the forward years.

### 3.2 Budgeted financial statements tables

**Table 3.1: Comprehensive income statement (showing net cost of services) for the period ended 30 June**

	2021-22 Estimated actual \$'000	2022-23 Budget \$'000	2023-24 Forward estimate \$'000	2024-25 Forward estimate \$'000	2025-26 Forward estimate \$'000
<b>EXPENSES</b>					
Employee benefits	25,554	30,103	29,905	30,131	30,084
Suppliers	3,597	4,904	5,164	5,149	5,564
Depreciation and amortisation (a)	3,175	3,179	3,179	3,179	3,244
Finance costs	176	268	228	184	59
<b>Total expenses</b>	<b>32,502</b>	<b>38,454</b>	<b>38,476</b>	<b>38,643</b>	<b>38,951</b>
<b>LESS:</b>					
<b>OWN-SOURCE INCOME</b>					
<b>Own-source revenue</b>					
Sale of goods and rendering of services	293	10	10	10	10
Other	50	50	50	50	50
<b>Total own-source revenue</b>	<b>343</b>	<b>60</b>	<b>60</b>	<b>60</b>	<b>60</b>
<b>Total own-source income</b>	<b>343</b>	<b>60</b>	<b>60</b>	<b>60</b>	<b>60</b>
<b>Net (cost of)/contribution by services</b>	<b>(32,159)</b>	<b>(38,394)</b>	<b>(38,416)</b>	<b>(38,583)</b>	<b>(38,891)</b>
Revenue from Government	36,616	37,104	37,238	37,563	37,871
<b>Surplus/(deficit) attributable to the Australian Government</b>	<b>4,457</b>	<b>(1,290)</b>	<b>(1,178)</b>	<b>(1,020)</b>	<b>(1,020)</b>

**Note: Impact of net cash appropriation arrangement**

	2021-22 Estimated actual \$'000	2022-23 Budget \$'000	2023-24 Forward estimate \$'000	2024-25 Forward estimate \$'000	2025-26 Forward estimate \$'000
<b>Total comprehensive income/(loss) – as per statement of Comprehensive Income</b>	<b>4,457</b>	<b>(1,290)</b>	<b>(1,178)</b>	<b>(1,020)</b>	<b>(1,020)</b>
plus: depreciation/amortisation of assets funded through appropriations (departmental capital budget funding and/or equity injections) (a)	970	1,050	1,050	1,050	1,050
plus: depreciation/amortisation expenses for ROU assets (b)	2,193	2,129	2,129	2,129	2,194
less: lease principal repayments (b)	1,897	1,889	2,001	2,159	2,224
<b>Net Cash Operating Surplus/ (Deficit)</b>	<b>5,723</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

a) From 2010–11, the Government introduced net cash appropriation arrangements where Bill 1 revenue appropriations for the depreciation/amortisation expenses of non-corporate Commonwealth entities (and select corporate Commonwealth entities) were replaced with a separate capital budget (the Departmental Capital Budget, or DCB) provided through Bill 1 equity appropriations. For information regarding DCBs, please refer to Table 3.5 Departmental Capital Budget Statement.

b) Applies leases under AASB 16 Leases.

Prepared on Australian Accounting Standards basis.

**Table 3.2: Budgeted departmental balance sheet (as at 30 June)**

	2021-22 Estimated actual \$'000	2022-23 Budget \$'000	2023-24 Forward estimate \$'000	2024-25 Forward estimate \$'000	2025-26 Forward estimate \$'000
<b>ASSETS</b>					
<b>Financial assets</b>					
Cash and cash equivalents	389	389	389	389	389
Trade and other receivables	38,665	39,427	39,906	40,089	40,272
<b>Total financial assets</b>	<b>39,054</b>	<b>39,816</b>	<b>40,295</b>	<b>40,478</b>	<b>40,661</b>
<b>Non-financial assets</b>					
Land and buildings	18,613	15,834	13,055	10,276	7,432
Property, plant and equipment	848	640	733	1,130	1,535
Intangibles	1	1	-	-	-
Other non-financial assets	798	798	798	798	798
<b>Total non-financial assets</b>	<b>20,260</b>	<b>17,273</b>	<b>14,586</b>	<b>12,204</b>	<b>9,765</b>
<b>Total assets</b>	<b>59,314</b>	<b>57,089</b>	<b>54,881</b>	<b>52,682</b>	<b>50,426</b>
<b>LIABILITIES</b>					
<b>Payables</b>					
Suppliers	580	580	580	580	580
<b>Total payables</b>	<b>580</b>	<b>580</b>	<b>580</b>	<b>580</b>	<b>580</b>
<b>Interest bearing liabilities</b>					
Leases	15,766	13,877	11,876	9,717	7,493
<b>Total interest bearing liabilities</b>	<b>15,766</b>	<b>13,877</b>	<b>11,876</b>	<b>9,717</b>	<b>7,493</b>
<b>Provisions</b>					
Employee provisions	9,833	9,953	10,073	10,193	10,313
<b>Total provisions</b>	<b>9,833</b>	<b>9,953</b>	<b>10,073</b>	<b>10,193</b>	<b>10,313</b>
<b>Total liabilities</b>	<b>26,179</b>	<b>24,410</b>	<b>22,529</b>	<b>20,490</b>	<b>18,386</b>
<b>Net assets</b>	<b>33,135</b>	<b>32,679</b>	<b>32,352</b>	<b>32,192</b>	<b>32,040</b>
<b>EQUITY*</b>					
<b>Parent entity interest</b>					
Contributed equity	12,140	12,974	13,825	14,685	15,553
Reserves	1,827	1,827	1,827	1,827	1,827
Retained surplus (accumulated deficit)	19,168	17,878	16,700	15,680	14,660
<b>Total equity</b>	<b>33,135</b>	<b>32,679</b>	<b>32,352</b>	<b>32,192</b>	<b>32,040</b>

Prepared on Australian Accounting Standards basis.

\*‘Equity’ is the residual interest in assets after deduction of liabilities.

**Table 3.3: Departmental statement of changes in equity – summary of movement  
(Budget year 2022–23)**

	Retained earnings \$'000	Asset revaluation reserve \$'000	Contributed equity/ capital \$'000	Total equity \$'000
<b>Opening balance as at 1 July 2022</b>				
Balance carried forward from previous period	19,168	1,827	12,140	33,135
<b>Adjusted opening balance</b>	<b>19,168</b>	<b>1,827</b>	<b>12,140</b>	<b>33,135</b>
<b>Comprehensive income</b>				
Surplus/(deficit) for the period	(1,290)	-	-	(1,290)
<b>Total comprehensive income</b>	<b>(1,290)</b>	<b>-</b>	<b>-</b>	<b>(1,290)</b>
<b>Transactions with owners</b>				
<b>Contributions by owners</b>				
Departmental Capital Budget (DCB)	-	-	834	834
<b>Sub-total transactions with owners</b>	<b>-</b>	<b>-</b>	<b>834</b>	<b>834</b>
<b>Estimated closing balance as at 30 June 2023</b>	<b>17,878</b>	<b>1,827</b>	<b>12,974</b>	<b>32,679</b>
<b>Closing balance attributable to the Australian Government</b>	<b>17,878</b>	<b>1,827</b>	<b>12,974</b>	<b>32,679</b>

Prepared on Australian Accounting Standards basis

**Table 3.4: Budgeted departmental statement of cash flows  
(for the period ended 30 June)**

	2021-22 Estimated actual \$'000	2022-23 Budget \$'000	2023-24 Forward estimate \$'000	2024-25 Forward estimate \$'000	2025-26 Forward estimate \$'000
<b>OPERATING ACTIVITIES</b>					
<b>Cash received</b>					
Appropriations	31,885	36,984	37,118	37,443	37,751
Sale of goods and rendering of services	249	10	10	10	10
<b>Total cash received</b>	<b>32,134</b>	<b>37,308</b>	<b>37,128</b>	<b>37,453</b>	<b>37,761</b>
<b>Cash used</b>					
Employees	26,501	29,983	29,785	30,011	29,964
Suppliers	3,626	4,854	5,114	5,099	5,514
Interest payments on lease liability	176	268	228	184	59
<b>Total cash used</b>	<b>30,303</b>	<b>35,105</b>	<b>35,127</b>	<b>35,294</b>	<b>35,537</b>
<b>Net cash from/(used by) operating activities</b>	<b>1,831</b>	<b>1,889</b>	<b>2,001</b>	<b>2,159</b>	<b>2,224</b>
<b>INVESTING ACTIVITIES</b>					
<b>Cash used</b>					
Purchase of property, plant and equipment and intangibles	24	192	492	797	805
<b>Total cash used</b>	<b>24</b>	<b>192</b>	<b>492</b>	<b>797</b>	<b>805</b>
<b>Net cash from/(used by) investing activities</b>	<b>(24)</b>	<b>(192)</b>	<b>(492)</b>	<b>(797)</b>	<b>(805)</b>
<b>FINANCING ACTIVITIES</b>					
<b>Cash received</b>					
Contributed equity	26	192	492	797	805
<b>Total cash received</b>	<b>26</b>	<b>192</b>	<b>492</b>	<b>797</b>	<b>805</b>
<b>Cash used</b>					
Principal payments on lease liability	1,897	1,889	2,001	2,159	2,224
<b>Total cash used</b>	<b>1,897</b>	<b>1,889</b>	<b>2,001</b>	<b>2,159</b>	<b>2,224</b>
<b>Net cash from/(used by) financing activities</b>	<b>(1,871)</b>	<b>(1,697)</b>	<b>(1,509)</b>	<b>(1,362)</b>	<b>(1,419)</b>
<b>Net increase/(decrease) in cash held</b>	<b>(64)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Cash and cash equivalents at the beginning of the reporting period	453	389	389	389	389
<b>Cash and cash equivalents at the end of the reporting period</b>	<b>389</b>	<b>389</b>	<b>389</b>	<b>389</b>	<b>389</b>

Prepared on Australian Accounting Standards basis.

**Table 3.5: Departmental capital budget statement (for the period ended 30 June)**

	2021-22 Estimated actual \$'000	2022-23 Budget \$'000	2023-24 Forward estimate \$'000	2024-25 Forward estimate \$'000	2025-26 Forward estimate \$'000
<b>NEW CAPITAL APPROPRIATIONS</b>					
Capital budget – Bill 1 (DCB)	829	834	851	860	868
<b>Total new capital appropriations</b>	<b>829</b>	<b>834</b>	<b>851</b>	<b>860</b>	<b>868</b>
<b>Provided for:</b>					
Purchase of non-financial assets	190	192	492	797	805
Other items	639	642	359	63	63
<b>Total items</b>	<b>829</b>	<b>834</b>	<b>851</b>	<b>860</b>	<b>868</b>
<b>PURCHASE OF NON-FINANCIAL ASSETS</b>					
Funded by capital appropriation - DCB (a)	190	192	492	797	805
<b>TOTAL</b>	<b>190</b>	<b>192</b>	<b>492</b>	<b>797</b>	<b>805</b>
<b>RECONCILIATION OF CASH USED TO ACQUIRE ASSETS TO ASSET MOVEMENT TABLE</b>					
Total purchases	190	192	492	797	805
<b>Total cash used to acquire assets</b>	<b>190</b>	<b>192</b>	<b>492</b>	<b>797</b>	<b>805</b>

Prepared on Australian Accounting Standards basis.

a) Includes purchases from current and previous years' Departmental capital budgets (DCBs).



**Table 3.6: Statement of departmental asset movements (Budget year 2022-23)**

	Buildings \$'000	Other property, plant and equipment \$'000	Computer software and intangibles \$'000	Total \$'000
<b>As at 1 July 2022</b>				
Gross book value	4,456	1,201	791	6,448
Gross book value - ROU assets	19,839	-	-	19,839
Accumulated depreciation/ amortisation and impairment	(559)	(353)	(790)	(1,702)
Accumulated depreciation/amortisation and impairment - ROU assets	(5,123)	-	-	(5,123)
<b>Opening net book balance</b>	<b>18,613</b>	<b>848</b>	<b>1</b>	<b>19,462</b>
<b>Capital asset additions</b>				
<b>Estimated expenditure on new or replacement assets</b>				
By purchase - appropriation ordinary annual services (a)	-	172	20	192
<b>Total additions</b>	<b>-</b>	<b>172</b>	<b>20</b>	<b>192</b>
<b>Other movements</b>				
Depreciation/amortisation expense	(650)	(380)	(20)	(1,050)
Depreciation/amortisation on ROU assets	(2,129)	-	-	(2,129)
<b>Total other movements</b>	<b>(2,779)</b>	<b>(380)</b>	<b>(20)</b>	<b>(3,179)</b>
<b>As at 30 June 2023</b>				
Gross book value	4,456	1,373	811	6,640
Gross book value - ROU assets	19,839	-	-	19,839
Accumulated depreciation/ amortisation and impairment	(1,209)	(733)	(810)	(2,752)
Accumulated depreciation/amortisation and impairment - ROU assets	(7,252)	-	-	(7,252)
<b>Closing net book balance</b>	<b>15,834</b>	<b>640</b>	<b>1</b>	<b>16,475</b>

Prepared on Australian Accounting Standards basis.

- a) 'Appropriation ordinary annual services' refers to funding provided through Appropriation Bill (No. 1) 2022–23 for depreciation/amortisation expenses, DCBs or other operational expenses.



## Freedom of Information Disclosures

The Commission had one FOI request in 2022. All documents were provided in full.

In previous years, where we have redacted information, the primary reason for doing so is to protect the personal contact details of staff (below SES).

**2023** Nil.

### 2022

1. **11/11/22 – Senate Estimates** – 48 documents identified: access provided to 48 documents, excluding personal signatures considered as irrelevant information by the applicant, in 4 documents.

### 2021

2. **19/4/21 – Resources Regulation Inquiry** – 2 documents identified: full access provided
3. **21/6/21 – Resources Regulation Inquiry** – 12 documents identified: 4 released in full, 2 released with redactions due to irrelevant information by the applicant, 6 documents were exempt in full under 47E(d) (effective operations of the agency), 47C (deliberative matter) and 47B(a) and (b) (Commonwealth-State relations).
4. **21/6/21 – Superannuation: Assessing Efficiency and Competitiveness Inquiry** – Nil documents located
5. **07/7/21 – Australian Government Competitive Neutrality Complaints Office (AGCNCO)** – 38 documents identified:

**22/09/21** – In the original decision, 2 documents were released in full, 34 released in part with redactions on the basis of personal information under section 47F, and 2 were exempt in full under sections 47E(d), (effective operations of the agency), 47F (personal information), and release would be contrary to the public interest.

**13/9/21** – The decision was upheld in an internal review.

**16/12/21** – A substitute decision (s55G) was made in response to the applicant applying to the Information Commissioner for a referral to the AAT (bypassing the Information Commissioner review): 2 documents provided in full, 26 documents were released with redactions under section 22, irrelevant information by the applicant. 10 documents were released in part with redactions on the basis of personal information under section 47F. The redactions did not affect the message in each document (email). The personal details that



remained redacted (access denied) are of third-party persons requesting their name and personal contact details were not disclosed.

6. **12/7/21 – Productivity Commission Gifts and Airlines** –1 document identified: full access provided
7. **27/7/21 – Superannuation: Assessing Efficiency and Competitiveness Inquiry** – 2 documents identified:

**26/8/21** – In the original decision, 2 documents were exempt in full under 47E(d), (effective operations of the agency) and 47C (deliberative matter), and release would be contrary to the public interest.

**1/10/21** – In an internal review, 1 document was released in full, 1 remained exempt in full under 47E(d), (effective operations of the agency), 47C (deliberative matter), and release would be contrary to the public interest.

Section 47E(d) conditionally exempts a document if disclosure would or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency. The document was written in the preliminary stages of the chapter drafting process. These early-stage documents seek to raise questions, test third-party content and explore ideas with other members of the inquiry team. The Commission's chapter drafting process involves vigorous revision, testing and discussion of views, and some of this material will not be progressed. It is crucial to the work of the Commission that these early deliberations are kept confidential within the Commission so that staff are able to openly and candidly engage with their colleagues on issues relevant to their inquiry. The nature of the Commission's work requires substantial testing of hypotheses and scrutiny of evidence and arguments. If such documents were disclosed to the public, this could adversely affect the willingness of staff to commit early thoughts and ideas to paper and to engage their colleagues on these matters. This would diminish the robustness and rigour of the Commission's deliberative processes, and inhibit staff's critical thinking and debate skills.

The Commission acknowledged that the release of the documents would contribute to public debate on the role of and comparative performance of the future fund and increase oversight of the activities of the Commission. This is achieved by the release of the first document identified. In light of this, releasing the second conditionally exempt document would not add any further information to the public debate, and therefore has limited public interest benefit. In contrast, the Commission considered there to be a strong public interest argument in the Commission's staff being able to freely and robustly test ideas and have preliminary discussion about inquiry report content.



8. 02/9/21 – 2 documents identified: 2 documents provided with redactions as exempt under section 47E(d) (substantial adverse effect on agency operations) and 47F (personal privacy) of the FOI Act, and release would be contrary to the public interest. The two documents were emails with third-parties. Only the persons details and email addresses were redacted, which did affect the messages in either document.
9. **25/9/21 – Inquiry into Mental Health, Final Report** – 175 documents were identified: 175 documents provided in full