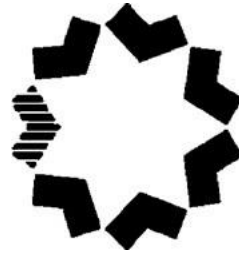


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NATIONAL  
COMPETITION  
COUNCIL



ANNUAL REPORT  
2022–23

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# Letter of transmittal

12 September 2023

Treasurer  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Treasurer

I am pleased to present you with the National Competition Council's (Council) annual report for the year ended 30 June 2023.

The report has been prepared in accordance with section 46 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and subsection 29O of the *Competition and Consumer Act 2010*.

As required by section 10 of the *Public Governance, Performance and Accountability Rules 2014*, I certify that:

- the Council has prepared fraud risk assessments and fraud control plans
- the Council has in place appropriate mechanisms that meet the specific needs of the Council for preventing; detecting incidents of; investigating or otherwise dealing with; and recording or reporting fraud
- the Council has taken all reasonable measures to appropriately deal with fraud relating to the Council.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Julie-Anne Schafer', is written over a light blue rectangular background.

Julie-Anne Schafer  
President

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# Glossary

ACCC	Australian Competition and Consumer Commission
ANAO	Australian National Audit Office
Audit Committee	Audit Committee of the National Competition Council
CCA	<i>Competition and Consumer Act 2010</i> (Cth)
clause 6 principles	The principles set out in clauses 6(2) to 6(5) of the Competition Principles Agreement
Council	National Competition Council (see also NCC)
CPA	Competition Principles Agreement
criterion (a)	Section 44CA(1)(a) of the CCA
criterion (b)	Section 44CA(1)(b) of the CCA
criterion (c)	Section 44CA(1)(c) of the CCA
criterion (d)	Section 44CA(1)(d) of the CCA
FOI Act	<i>Freedom of Information Act 1982</i> (Cth)
GST	Goods and Services Tax
IGA	Intergovernmental Agreement on Competition and Productivity Enhancing Reforms
IPS	Information Publication Scheme
MSA Act	<i>Maritime Services (Access) Act 2000</i> (SA)
MOU	Memorandum of Understanding
National Access Regime	The generic access regime described in Part IIIA of the <i>Competition and Consumer Act 2010</i> (Cth)
NCC	National Competition Council (see also Council)
NCP	National Competition Policy
NEM	National Electricity Market
NGL	National Gas Law
Part IIIA	Part IIIA of the <i>Competition and Consumer Act 2010</i> (Cth)
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i> (Cth)
PGPA Rule	Public Governance, Performance and Accountability Rule 2014 (Cth)
PNO	Port of Newcastle Operations Pty Ltd
ROA Act	<i>Railways (Operations and Access) Act 1997</i> (SA)
Tribunal	Australian Competition Tribunal
WA-NGL	National Gas Access (WA) Act 2009

# About this report

The role of the National Competition Council (Council) is to make recommendations concerning access to infrastructure services under the National Access Regime (NAR) prescribed in Part IIIA of the *Competition and Consumer Act 2010* (Cth) (CCA) and recommendations and decisions under the National Gas Law (NGL) and Western Australian National Gas (Access) Law (WA-NGL).

This annual report covers the Council's work during the 2022-23 financial year (2022-23).

Chapter 1 provides the President's review of significant issues, events and actions relevant to the Council during 2022-23.

Chapter 2 reports on the work undertaken by the Council during 2022-23 in its role of making recommendations to Ministers on applications for declaration and certification under Part IIIA of the CCA; and on matters pursuant to the NGL or WA-NGL. The chapter also reports on the NAR as required by s 290 of the CCA and summarises the Council's performance against key performance measures contained in the Portfolio Budget Statements 2022-23 and Corporate Plan 2022-23.

Chapter 3 discusses the Council's governance arrangements including compliance with requirements for annual reports for non-corporate Commonwealth entities.

Chapter 4 contains the Council's audited financial statements for 2022-23.

## National Competition Council Outcome

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Competition in markets that are dependent on access to nationally significant monopoly infrastructure, through recommendations and decisions promoting the efficient operation of, use of, and investment in infrastructure.

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## Accessing this report online

Section 17ABA of the *Public Governance, Performance and Accountability Act 2013* requires that as soon as practicable after the annual report for a non-corporate Commonwealth entity has been presented to the Parliament, the annual report must be published using the digital reporting tool administered by the Finance Minister. Accordingly, an electronic copy of this Annual Report is available at <https://www.transparency.gov.au/>.

# 1 President's review

2022-23 was an important year for the Council's mission 'to improve the wellbeing of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest'. While the Council only received one application during the year, there were a number of important developments that will impact the Council and its mission going forward.

In 2022-23, the Council advocated for a review of Australia's competition policy settings, including via its submission to the House of Representatives Standing Committee on Economics' inquiry into promoting economic dynamism, competition and business formation in April 2023. Competitive markets lead to greater productivity. They are the best mechanism to drive a resilient economy that delivers for businesses and consumers. Economic barriers to business participation can harm competition, and therefore productivity.

In August 2023, the Government announced a Competition Policy Review, to be led by the Commonwealth Treasury and to run for two years. The Council welcomes this announcement, and will liaise closely with Treasury throughout this process. The Council was created out of the National Competition Policy (NCP) reforms of the 1990s and early 2000's. The NCP was a landmark Australian microeconomic reform program, and the NCC will advocate for the elements that made the NCP a success to be included in this current review – primarily:

- A strong agreement between the Commonwealth, states and territories to the overarching competition principles behind the reforms.
- An appropriate forum by which to progress reforms across jurisdictions.
- Appropriate monitoring and reporting of reform implementation.

In terms of applications, it was a quiet year for the Council, with only one application received in June 2023. This application was for a 15 year no coverage determination by the APA Group for the Northern Goldfields Interconnect (NGI). This is a 579 kilometre pipeline in Western Australia that joins the Dampier to Bunbury Natural Gas Pipeline (DBNGP) to the Goldfields Gas Pipeline (GGP). Consultation on this application has commenced and a final recommendation is likely to be made in the first half of 2023-24. Council decisions on applications like this, and those under the National Access Regime are vital to promoting the welfare of Australians by encouraging competition in markets dependent on access to infrastructure services, while at the same time ensuring they do not discourage efficient investment in the infrastructure needed to provide these services.

Legislative developments in 2022-23 mean that Western Australia is the only state where the NCC retains its responsibility in relation to gas pipelines. Previously announced changes to the National Gas Law took effect in March 2023, which removed the powers of the Council in relation to gas pipeline access and regulation. This role will be taken on by the Australian Energy Regulator. The NCC retains a role in Western Australia, where access to gas pipelines is governed by the National Gas Access (Western Australia) Law (WA NGL). The WA NGL adopts version 1 of the National Gas Rules (NGR) whereas the rest of the participating jurisdictions have adopted the current version of the NGRs.

Julie-Anne Schafer

President, National Competition Council

# 2 Third party access to infrastructure services

## Third party access to infrastructure services

Part IIIA of the CCA establishes the NAR under which an access seeker can gain access to services provided by nationally significant infrastructure that exhibit natural monopoly characteristics, in circumstances where access (or increased access) to the service on reasonable terms and conditions, as a result of a declaration would promote a material increase in competition in a dependent market.

Under the regime, the Council considers (and makes recommendations to designated Ministers on) applications relating to the declaration of services; ineligible service rulings; and the certification of state and territory access regimes. The Council has a similar role under the NGL and WA-NGL whereby it makes recommendations to relevant Minister(s) on the coverage (regulation) of natural gas pipeline systems.<sup>1</sup>

## Declaration of services

Obtaining access under the NAR is a two-stage process. The first stage involves the Council considering applications seeking the declaration of a service (or services) before making a recommendation to the designated Minister, who then determines whether the service should be ‘declared’. The second stage is a negotiate-arbitrate process, whereby the parties — the service provider(s) and the access seeker(s) — first try to negotiate commercial agreement on the terms and conditions of access. There is recourse to binding arbitration by the Australian Competition and Consumer Commission (ACCC) in the event that the parties are unable to reach agreement via commercial negotiation.

The Council cannot recommend that a service be declared unless satisfied all of the declaration criteria set out in s 44CA of the CCA are met. In making a recommendation on a declaration application, the Council must have regard to the objects of Part IIIA. The designated Minister cannot declare a service unless satisfied that the same criteria in s 44CA of the CCA are met. The designated Minister must also have regard to the objects of Part IIIA in making their decision.

Under s 44J of the CCA, the Council may decide to recommend to the designated Minister that an existing declaration be revoked. In making this decision, the Council must have regard to the objects of Part IIIA of the Act. The Council cannot recommend revocation of a declaration unless it is satisfied that, at the time of the recommendation, s 44F(1) would prevent the making of a declaration application or s 44H(4) would prevent the service from being declared.

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<sup>1</sup> The Council’s role under the NGL was subject to legislative reform in 2022-23. This matter is discussed in the Council’s report under s29O of the CCA.



In accordance with the *Competition and Consumer Amendment (Competition Policy Review) Act 2017*, the declaration criteria that the Council and Minister must consider before recommending or making a declaration, are set out in Table 2.1.

**TABLE 2.1: DECLARATION CRITERIA (SECTION 44CA OF THE CCA)**

(1) The declaration criteria for a service are:	(a) that access (or increased access) to the service, on reasonable terms and conditions, as a result of a declaration of the service would promote a material increase in competition in at least one market (whether or not in Australia), other than the market for the service (criterion (a)); and
	(b) that the facility that is used (or will be used) to provide the service could meet the total foreseeable demand in the market:
	(i) over the period for which the service would be declared, and
	(ii) at the least cost compared to any 2 or more facilities (which could include the first mentioned facility) (criterion (b)); and
	(c) that the facility is of national significance, having regard to:
	(i) the size of the facility or
	(ii) the importance of the facility to constitutional trade or commerce, or
	iii) the importance of the facility to the national economy (criterion (c))
(2) For the purposes of paragraph (1)(b):	(d) that access (or increased access) to the service, on reasonable terms and conditions, as a result of a declaration of the service would promote the public interest (criterion d)
	(a) if the facility is currently at capacity, and it is reasonably possible to expand that capacity, have regard to the facility as if it had that expanded capacity; and
(3) Without limiting the matters to which the Council may have regard for the purposes of section 44G, or the designated Minister may have regard for the purposes of section 44H, in considering whether paragraph (1)(d) of this section applies the Council or designated Minister must have regard to:	(b) without limiting paragraph (1)(b), the cost referred to in that paragraph includes all costs associated with having multiple users of the facility (including such costs that would be incurred if the service is declared).
	(a) the effect that declaring the service would have on investment in:
	i) infrastructure services; and
	(ii) markets that depend on access to the service and
	(b) the administrative and compliance costs that would be incurred by the provider of the service if the service is declared.

In making a recommendation on an application for declaration of service(s), the Council undertakes a public consultation process. This usually involves:

- publishing the application and seeking submissions on the application from the service provider and other interested parties
- publishing a draft recommendation setting out the Council's assessment of the application
- seeking submissions on the draft recommendation
- preparing a final recommendation that is delivered to the designated Minister.

When the designated Minister receives the Council's final recommendation, they must decide whether or not to declare the service, applying the same declaration criteria as the Council.

When the Council receives an application for declaration of service(s), the Council is required to make its recommendation to the designated Minister within 180 days from receipt of the application. If the designated Minister does not make and publish a decision within 60 days of receiving the Council's recommendation, the designated Minister is deemed to have made a decision in accordance with the Council's recommendation and to have published a decision to that effect.

Ministerial decisions in respect of declaration applications are subject to limited merits review by the Australian Competition Tribunal (Tribunal).<sup>2</sup> The Tribunal has 180 days to make its decision and is limited to considering the material that was before the designated Minister or, in the case of a deemed decision, the material that was before the Council (unless the Tribunal requests additional information).

In contrast, there are no procedural requirements set out in s 44J of CCA in relation to any Council consideration of whether it should make a recommendation to the designated Minister to revoke a declaration.

If the Council makes a recommendation to the designated Minister under s 44J of the CCA that a declaration be revoked, the designated Minister must either revoke or decide not to revoke the declaration. If the designated Minister does not make and publish a decision within 60 days of receiving the Council's revocation recommendation, the Minister is deemed to have made a decision in accordance with the Council's recommendation to revoke the declaration. In the event the designated Minister decides not to revoke a declaration following a recommendation to do so by the Council, the provider of the declared service may apply to the Tribunal for a review of the Minister's decision.

Where a service is declared, the negotiation and arbitration stage of the NAR is enlivened. Any person seeking access to the service (not just the declaration applicant) has a right to negotiate with the provider of the declared service. It is expected that an access seeker will negotiate the terms and conditions of access directly with the service provider. If commercial negotiations are unsuccessful, then the access dispute may be arbitrated by the ACCC. This 'light handed' regulatory approach is intended to encourage commercial resolution with minimal regulatory intervention where possible.

Regulatory intervention occurs only in the event that an access seeker and service provider are unable to reach commercial agreement and an access dispute is notified (by either party) to the ACCC. The ACCC has broad scope to make orders to resolve an access dispute — although it must do so within the terms set

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<sup>2</sup> Merits review by the Tribunal of declaration decisions is subject to legislative reform. This matter is discussed in the Council's report under s29O of the CCA.

out in Part IIIA of the CCA including, in particular, the factors or safeguards to the rights of service providers and existing users (set out in s 44W of the CCA). Ultimately, if the ACCC is unable to arrive at access terms that appropriately recognise the interests of an infrastructure owner, then it does not have to require access to a declared service.

Providers of declared services to which an access seeker has rights under an ACCC arbitration determination are subject to a prohibition against preventing or hindering access to those services under the determination (s 44ZZ of the CCA). Service providers are not required, however, to seek regulatory approval in relation to their day-to-day business decisions or their technology or investment choices, nor do access seekers have a veto in relation to these matters.

There is an exemption from access regulation available for services that would be provided by greenfields infrastructure. A person with a material interest in a proposed new infrastructure facility can apply to the Council for a service to be provided by that new facility to be ineligible for declaration. For a proposed service to be ineligible for declaration, one or more of the declaration criteria must not be able to be satisfied. An ineligibility decision will apply for a period of at least 20 years.<sup>3</sup> Further, a service provided by Commonwealth, State or Territory government-owned infrastructure cannot be declared if the construction and operation of the facility was subject to an approved competitive tender process.

Under the NAR, a facility owner can volunteer an access undertaking to the ACCC setting out the terms on which access will be granted. There is also a process by which a State or Territory access regime can be 'certified' as effective (see below). Where an access undertaking is accepted by the ACCC, or a State or Territory access regime is certified as effective, the relevant services are excluded from the prospect of declaration.

## Certification of state and territory access regimes

An application for certification of a State or Territory access regime is made to the Council by the responsible Minister of the relevant State or Territory, usually the Premier or Chief Minister. The Council is then responsible for making a recommendation to the Commonwealth Minister as to whether the State or Territory access regime is effective.

When the Council makes a certification recommendation, the Council must consider the application against the principles in clauses 6(2) to 6(5) of the *Competition Principles Agreement* (CPA) (clause 6 principles), treating each clause 6 principle as a guideline rather than a binding rule. The Council must also have regard to the objects of Part IIIA set out in s 44AA of the CCA and must not consider any other matters (see generally s 44M of the CCA). The Commonwealth Minister in making his or her decision is subject to the same requirements as the Council in making its recommendation (see s 44N).

Similar to declaration applications, the Council is required to make its certification recommendation to the Commonwealth Minister within 180 days from receipt of an application; and the Minister must make and publish a decision within 60 days of receiving the Council's recommendation. If the Commonwealth Minister does not make and publish his or her decision within 60 days, he or she is deemed to have made a decision in accordance with the Council's recommendation.

The CCA also provides a mechanism for revocation of a decision to certify an access regime. Under section 44NBA(1), the Council may on its own initiative, or must on application, consider whether to

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<sup>3</sup> No applications for an ineligible service ruling under Part IIIA have been made since this provision was enacted in 2010.

recommend that the Commonwealth Minister revoke the decision. The Council must consider whether it is satisfied that the regime no longer meets the clause 6 principles set out in the CPA because of substantial changes to the regime, and/or substantial amendments to the clause 6 principles. When the Commonwealth Minister receives the Council's recommendation, the Minister must assess whether he or she should revoke the decision, applying the same factors and matters as the Council. If the Commonwealth Minister does not make and publish a decision within 60 days, the Minister is deemed to have made and published a decision in accordance with the Council's recommendation.

The certification process is not an assessment of whether a State or Territory access regime is 'optimal'. Nonetheless, it provides a high-level assurance that a State or Territory access regime that will apply to the exclusion of declaration reflects similar principles to the regime it displaces and provides assurance that the clause 6 principles have been addressed.

The current certification status of State and Territory access regimes is set out in Table 2.3.

**TABLE 2.3: STATE AND TERRITORY ACCESS REGIMES**

State/Territory	Access regime	Certification status
ACT	Electricity networks (NEM <sup>[1]</sup> )	Not certified
	Gas pipeline networks (NGL <sup>[2]</sup> )	Not certified
NSW	Water infrastructure (Water Industry Competition Act 2006 (NSW))	Certified in respect of access to water infrastructure services in the areas listed in Schedule 1 of the Act (namely the areas of operation of Sydney Water Corporation and Hunter Water Corporation) for a period of 10 years from 13 August 2019
	Intrastate railways (New South Wales Rail Access Undertaking, Transport Administration Act 1988 (NSW))	Not certified (previous certification expired on 31 December 2000)
	Electricity networks (NEM)	Not certified
	Gas pipeline networks (NGL)	Not certified
NT	Electricity networks (Electricity Networks (Third Party Access) Act (NT))	Not certified (previous certification expired in March 2017)
	Gas pipeline networks (NGL)	Not certified (previous certification expired in October 2016)
	Port of Darwin (Ports Management Act 2015 and Ports Management Regulations 2015 (NT))	Not certified
	Tarcoola-Darwin railway (AustralAsia Railway (Third Party Access) Act (NT and SA))	Certified from March 2000 to 31 December 2030
QLD	Dalrymple Bay Coal Terminal (Queensland Competition Authority Act 1997 (QLD) (QCA Act))	Certified to 11 July 2031
	Central Queensland Coal Railway Network and other railways operated by Queensland Rail (QCA Act)	Certified to 19 January 2036
	Electricity networks (NEM)	Not certified

	Gas pipeline networks (NGL)	Not certified
SA	Specified bulk water transport pipelines operated by SA Water set out in Part 9A of the Water Industry Act 2012 (SA).	Certified to 21 May 2027
	Intrastate railway infrastructure - (Railways (Operations and Access) Act 1997 (SA))	Certified to 5 April 2032
	South Australian Ports (Maritime Services (Access) Act 2000 (SA))	Certified to 9 May 2031
	Electricity networks (NEM)	Not certified
	Gas pipeline networks (NGL)	Not certified
VIC	Electricity networks (NEM)	Not certified
	Gas pipeline networks (NGL)	Not certified
	Intrastate railways (Rail Management Act 1996 (Vic))	Not certified
	Shipping channels in Port Phillip Bay (Port Management Act 1995 (Vic))	Not certified
WA	Certain intrastate railways (Railways (Access) Act 1998 (WA) and the Railways (Access) Code 2000)	Not certified (previous certification expired on 10 February 2016)
	Electricity Network Services (Electricity Industry Act 2004 (WA), Electricity Networks Access Code 2004 (WA))[3]	Not certified (previous certification expired on 16 July 2021)
	Gas pipeline networks (NGL[4])	Not certified

[1] NEM indicates membership of the National Electricity Market scheme incorporating electricity network regulation under the *National Electricity Law (National Electricity (South Australia) Act 1996)* and mirror legislation in other jurisdictions.

[2] NGL indicates access regulation under the *National Gas Law (National Gas (South Australia) Act 2008)* and mirror application Acts in other jurisdictions.

[3] This regime applies to the South West Interconnected System.

[4] The *National Gas Access (WA) Act 2009* applies the NGL and National Gas Rules in Western Australia except that the relevant regulator is the Economic Regulation Authority of Western Australia rather than the Australian Energy Regulator.

## National Gas Law

The NGL provides for the regulation of natural gas pipeline services in Australia.

The Council's role under the NGL is similar to its role under Part IIIA of the CCA. The Council makes recommendations to relevant Minister(s) on the coverage (regulation) of natural gas pipeline systems. In addition, under the NGL, the Council also:

- decides the form of regulation of natural gas pipeline systems (i.e., light or full regulation)
- classifies pipelines as transmission or distribution pipelines
- makes recommendations in relation to certain exemptions for 'greenfields' gas pipeline proposals.

Under the NGL the Council is subject to a time limit, generally of four months, for making its recommendations and determinations.

The current 'coverage criteria' are reproduced in table 2.4.

The Council's role under the NGL ended in March 2023 – with the exception of WA where it continued under the WA-NGL - with the implementation of a new regulatory framework for gas pipelines agreed by Energy Ministers in May 2021. This matter is discussed in the Council's report under s29O of the CCA.

**TABLE 2.4: PIPELINE COVERAGE CRITERIA (SECTION 15 OF THE NGL)**

The pipeline coverage criteria are:

**(a)** that access (or increased access) to pipeline services provided by means of the pipeline would promote a material increase in competition in at least 1 market (whether or not in Australia), other than the market for the pipeline services provided by means of the pipeline (criterion (a))

**(b)** that it would be uneconomic for anyone to develop another pipeline to provide the pipeline services provided by means of the pipeline (criterion (b))

**(c)** that access (or increased access) to the pipeline services provided by means of the pipeline can be provided without undue risk to human health or safety (criterion (c))

**(d)** that access (or increased access) to the pipeline services provided by means of the pipeline would not be contrary to the public interest (criterion (d)).

# Annual Performance Statement for the Council for 2022-23

## Statement of Performance

I, as the accountable authority of the National Competition Council (NCC), present the 2022-23 annual performance statements of the NCC, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity in the reporting period and comply with subsection 39(2) of the PGPA Act.

A handwritten signature in dark ink, appearing to read 'Julie-Anne Schafer', is written over a light blue circular stamp.

Julie-Anne Schafer  
President

## The Council's purpose and key performance measures

The Council's purpose is to:

- make recommendations under the NAR in Part IIIA of the CCA, to relevant ministers in relation to applications for declaration of service(s) and applications for the certification of State or Territory access regimes, and
- make recommendations on the coverage of natural gas pipeline systems and decisions on the form of regulation (light or full), classification of pipelines (transmission or distribution) and recommending in relation to various exemptions for greenfields gas pipelines.

The Council's assessment of its performance against key performance measures set out in its 2022-23 Corporate Plan and the Treasury Portfolio Budget Statements 2022-23 is provided below.

### **1. Recommendations on declaration applications made within statutory time limits (consideration period of 180 days) and meet the advice requirements of Ministers**

The Council did not consider any declaration applications in 2022-23 and was therefore not required to make any recommendations.

### **2. Recommendations on certification applications made within statutory time limits (consideration period of 180 days) and meet the advice requirements of Ministers**

During 2022-23, the Council did not consider any certification applications.

### **3. Recommendations and decisions under the NGL or WA-NGL made within specified time limits and recommendations under the NGL or WA-NGL meet the advice requirements of Ministers**

The Council received one application under the WA-NGL in June 2023 and will make its recommendation in 2023-24 year as per the requisite time limits. The Council did not consider any other applications under the NGL or WA-NGL in 2022-23 and was therefore not required to make any recommendations or decisions.

For 2023-24 and beyond this performance criteria will only apply to the WA-NGL due to the legislative changes made in March 2023.

### **4. Accessible information on all access regulation matters for which the NCC is responsible is provided on the NCC website**

The Council's principal website ([www.ncc.gov.au](http://www.ncc.gov.au)) contains accessible information on the Council's responsibilities and roles concerning third party access to infrastructure under both the CCA, NGL and the WA-NGL. The website aims to provide ready access to:

- information on current applications, including copies of the application, submissions, timing matters, and draft and final recommendations



- information on past applications
- Council guides and other publications and resources
- details of the Council's operations.

During 2022-23 there were approximately 112,000 visits to the Council's website.

## **5. Up to date and informative guidelines on all the NCC's areas of responsibility are maintained on the NCC website**

The Council has published guides to declaration and certification under Part IIIA of the CCA and to coverage determinations and other Council responsibilities under the NGL. The current guidelines may be downloaded or printed from the Council's website ([www.ncc.gov.au](http://www.ncc.gov.au)).

The guides reflect the Council's thinking as it has evolved through dealing with applications and draws on relevant decisions of the Tribunal and the Courts. They are designed to be informative and assist prospective applicants to determine the merits of an application and, if appropriate, frame an application to the Council. They are also useful to service providers and other parties involved in declaration and similar processes under Part IIIA of the CCA, and the NGL.

The Council is currently updating its guidance on gas pipeline applications to reflect the legislative changes made in March 2023. The NGL guidance currently available remains applicable and informative for applicants.

The Gas Guide was last updated in October of 2013 and is not intended to be updated with every change to the NGL however, with the March 2023 changes to the NCC role it is appropriate to review this guidance to remove the NCC's role under the NGL and retain only the role under the WA-NGL.

## **6. Case law developments, legislative amendments and developments in the NCC's processes or policies are reflected in the NCC's information resources within 30 days**

There were no case law developments, there was one legislative amendment and there were no substantial changes in the NCC's processes or policies in 2022-23. During the 2022-23 year the NGL was amended and the role of the NCC removed in relation to gas pipelines in all participating jurisdictions except Western Australia. This change has been reflected in the information on the NCC website and we are currently in the process of ensuring that the NCC's gas guide reflects these changes.

## **7. The NCC's annual report to the Parliament includes a comprehensive report that meets the requirements of section 290 of the CCA and is provided within the timeframe required by the PGPA Act**

Section 290 of the CCA requires the Council to report on various matters relating to the operation of the NAR. The Council's 2022-23 report follows below.

## The Council's response to requirements of section 29O of the CCA

### The Council's performance in meeting legislative timeframes for recommendations on any applications under section 44F, 44M, 44NA or 44NBA

During 2022-23, the Council made no recommendations in relation to certification applications.

### Impediments to the operation of Part IIIA

The Council is not aware of any material impediments to the operation of Part IIIA arising during 2022-23.

### Evidence of the benefits arising from the Australian Competition and Consumer Commission's arbitration determinations.

No arbitration determinations in relation to declared services were made by the ACCC in 2022-23.

### Evidence of the costs of, or disincentives for, investment in infrastructure by which declared services are provided

The Council is not aware of any evidence in relation to any declared service relating to the costs of, or disincentives for, investment in infrastructure by which declared services are provided.

### Implications for the future operation of Part IIIA

#### *Gas Pipeline Regulation*

As discussed in previous reports, the Council provided a submission to Energy Ministers' consultation on the regulatory framework for gas pipelines in late 2019. The Council advocated for the retention of existing governance arrangements and advised against regulators determining the service they regulate.

In May 2021, Energy Ministers released a decision regulation impact statement setting out an agreed package of reforms in relation to gas pipeline regulation. Under the agreed new arrangements, the Council's role in providing independent expert advice under the NGL will be removed.

This new regulatory framework commenced in March 2023 following completion of the necessary legislative amendments through the South Australian Parliament. The WA Government did not adopt these amendments and the Council still provides independent expert advice under the WA-NGL.

Given the infrequent nature of applications made to the Council under its WA-NGL functions, the Council expects minimal impact to its operations as a result of these changes.<sup>4</sup>

### Analysis of performance against the purpose

The Council's performance in meeting its key performance indicators (set out in the Treasury Portfolio Budget Statements and Corporate Plan 2022-23) is summarised in table 2.5.

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<sup>4</sup> The Council last considered an application in relation to its NGL role in February 2015.

**TABLE 2.5: SUMMARY OF COUNCIL'S PERFORMANCE IN MEETING ITS 2022-23 KEY PERFORMANCE INDICATORS**

Key performance indicator	2022-23 target	Outcome
Recommendations on declaration applications made within statutory time limits (consideration period of 180 days) and meet advice requirements of Ministers.	Recommendations are made within 180 days. Recommendations meet the advice requirements of decision-making Ministers	The Council did not consider any declaration applications in 2022-23 and therefore was not required to make any recommendations.
Recommendations on certification applications made within statutory time limits (consideration period of 180 days) and meet advice requirements of Ministers.	Recommendations are made within 180 days. Recommendations meet the advice requirements of decision-making Ministers	During 2022-23 the Council did not consider certification applications and was not required to make any recommendations.
Recommendations and decisions under the NGL or WA-NGL made within specified time limits and recommendations under the NGL or WA-NGL meet the advice requirements of Ministers.	Recommendations and decisions are made within statutory time limits. Recommendations meet the advice requirements of decision-making Ministers.	The Council did not consider any matters under the NGL or WA-NGL during 2022-23 and was therefore not required to make any recommendations or decisions.
Accessible information on all access regulation matters for which the Council is responsible is provided on the Council's website.	Council website holds all documents relevant to the Council's functions.	The Council's website contains accessible information on all access regulation matters for which the Council is responsible.
Up to date and informative guidelines on all the Council's areas of responsibility are maintained on the Council's website.	Guides to all aspects of the National Access Regime and the Council's responsibilities under the NGL are available. Guides are updated within 30 days of relevant decisions or developments in case law.	Guides to declaration and certification under the NAR are all up to date and available on the Council's website. The Council is currently updating its guidance on gas pipeline applications to reflect the legislative changes made in March 2023. The NGL guidance currently available remains applicable and informative for applicants. The revised guidance will reflect the more narrow scope of the NCC's roles in relation to pipelines
Case law developments, legislative amendments and developments in the Council's processes or policies are reflected in the Council's information resources within 30 days.	Case law developments, legislative amendments and developments in Council processes or policies are reflected in Council information resources within 30 days.	There were no case law developments, one legislative amendment and no changes in the Council's processes or policies during the reporting year. Information is up to date.
The Council's annual report to the Parliament includes a comprehensive report that meets the requirements of s290 of the CCA and is provided within the timeframe required by the PGPA Act (i.e., by the 15th day of the fourth month after the end of the reporting period).	The Council annual report provides comprehensive information on the National Access Regime and NGL, addresses all matters required under section 290 of the CCA and is provided within the required timeframe.	The Council's 2021-22 Annual Report was provided to the Treasurer within the timeframe required by the PGPA Act. The Annual Report met the requirements of s290 of the CCA.

# 3 Governance and organisation

## About the National Competition Council

### Role and functions

The National Competition Council (Council) is a Commonwealth statutory agency established by section 29A of the CCA. The Council was created in 1995 following agreement by the Council of Australian Governments and is an independent research and advisory body for all Australian governments. Its functions and powers are set out in section 29B of the CCA.

The Council makes recommendations on applications for third party access to services provided by monopoly infrastructure under the NAR in Part IIIA of the CCA and recommendations and decisions on applications made under the NGL.

### Vision, purpose and mission

The Council's vision is to help achieve outcomes that benefit the community as a whole by providing objective and constructive advice to governments. This incorporates building business and community understanding of third-party access regulation.

The Council's purpose is to:

- make recommendations under the NAR in Part IIIA of the CCA, to relevant ministers in relation to applications for the declaration of services and also the certification of State or Territory access regimes, and
- make recommendations on the coverage of natural gas pipeline systems and decisions on the form of regulation (light or full), classification of pipelines (transmission or distribution) and recommending in relation to various exemptions for greenfields gas pipelines (Outcome 1).

Both the NAR and the NGL seek to promote the efficient operation of, use of, and investment in significant bottleneck infrastructure, and to promote competition, efficiency and productivity in markets that depend on the use of services provided by significant bottleneck infrastructure facilities. This facilitates economic growth, employment growth, efficient resource use and improved social outcomes for all Australians.

The Council's vision is embodied in its mission: 'To improve the wellbeing of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest'.

The Council's *Corporate Plan 2023-24*, published in August 2023, is available on the Council's website.

## Outcome and program

The Council has a single outcome with one contributing program. The Council's outcome is competition in markets that are dependent on access to nationally significant monopoly infrastructure, through recommendations and decisions promoting the efficient operation of, use of, and investment in infrastructure.

The Council's program objective is to provide advice to governments and make decisions on infrastructure access issues that accord with statutory requirements (including time limits) and good regulatory practice and ensure that advice meets requirements of decision-making ministers. This helps ensure Australia achieves a consistent approach to access regulation that promotes the efficient operation of, use of, and investment in infrastructure, thereby promoting effective competition.

Indicators for assessing the Council's performance against its objectives in 2022-23 are set out in Chapter 2 of this annual report. Chapter 2 also contains the Council's report to the Australian Parliament on the operation of the NAR, which is required under section 29O of the CCA.

## Summary analysis of financial performance

The Australian Government funds the Council through budget appropriations. The Council received \$1.683 million in 2022-23.

The Council achieved an operating surplus of \$716 370 in 2022-23. This arose primarily because of lower than anticipated spending on legal and economic advisory services.

The Council's net assets as at 30 June 2023 were \$3.615 million.

Parties making applications under the NGL must pay a fee for applications regarding the access regulation (coverage) of natural gas pipelines and decisions on the classification of pipelines.<sup>5</sup> The fee is \$7 500 per coverage application and \$2 000 per classification application. Any application fees are remitted to the Official Public Account. The Council received one application fee in 2022-23 of \$7 500.

Table 3.1 summarises the total resources and payments of the Council in 2022-23 while Table 3.2 provides a summary of expenses showing variation against budget. Further detail on the Council's financial performance in 2022-23 is available in Chapter 4 Financial Statements.

**TABLE 3.1: RESOURCE STATEMENT 2022-23**

	Actual available appropriations for 2022-23	Payments made in 2022-23	Balance remaining
	\$'000	\$'000	\$'000
<b>Departmental</b>			
Annual appropriations – ordinary annual services [1]	5 115	969	4 146
<b>Total ordinary annual services</b>	<b>5 115</b>	<b>969</b>	<b>4 146</b>

[1] Supply Act (No. 1) 2022-23, Supply Act (No. 3) 2022-23, prior year departmental appropriations and section 74 retained revenue receipts.

<sup>5</sup> No fees are payable in relation to applications for light regulation.

**TABLE 3.2: OUTCOME EXPENSES 2022-23**

	Budget 2022-23	Actual Expenses 2022-23	Variation
	\$'000	\$'000	\$'000
<b>Program 1.1 Departmental expenses</b>			
Departmental appropriation	1 683	967	716
Expenses not requiring appropriation in the Budget year [1]	34	34	-
<b>Total expenses for Program 1.1</b>	<b>1 717</b>	<b>1 001</b>	<b>716</b>
<b>Total expenses for Outcome 1.1</b>	<b>1 717</b>	<b>1 001</b>	<b>716</b>

[1] Expenses not requiring appropriation in the Budget year are made up of audit fees.

## Corporate Governance

The Council's governance framework establishes accountability and decision-making processes to effectively and efficiently manage its resources and allocate those resources to its statutory priorities. The Council has embraced the management, accountability, financial and employment arrangements applicable to government agencies.

The Council is responsible for its activities, consistent with the requirements of the CCA, with decisions being made at Council meetings.

The Council is accountable for its decisions through the courts, the Australian Competition Tribunal, the Parliament, and the Commonwealth Ombudsman.

### National Competition Council structure and membership

The Council comprises the President and up to four other councillors appointed by the Governor-General, with appointments supported by a majority of state and territory governments. Part IIA of the CCA specifies the processes for appointing councillors, conducting Council meetings and disclosing interests by councillors.

Councillors are drawn from across Australia and different industry and community sectors to provide a range of skills and experience. They endorse the operating policies of the Council, and consider, review and approve all of the Council's recommendations and major publications before release. The councillors also oversee the Council's operations and provide financial oversight.

The Council President is the Accountable Authority for the purposes of ensuring the Council's compliance with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and other Australian Public Service requirements.

Ms Julie-Anne Schafer was the Accountable Authority from 1 July 2022 to 30 June 2023.

The membership of the Council in 2022-23 is provided in Table 3.3.

**TABLE 3.3: COUNCIL MEMBERSHIP**

Julie-Anne Schafer	<p>Ms Julie-Anne Schafer is the President of the National Competition Council.</p> <p>Ms Schafer was initially appointed for a period of three years from 18 December 2015. In December 2018, Ms Schafer was re-appointed as President for a further three-year term to December 2021. On 4 March 2022, Ms Schafer was reappointed as President for a further three-year term.</p> <p>Ms Schafer has 20 years of experience as a partner in the legal services sector. She has served on advisory committees for the law faculties of several universities in Queensland. She was also the Deputy Chancellor of the Queensland University of Technology. She has over 15 years of directorship experience in diverse and highly regulated sectors, including energy, water, financial services, road and rail transport.</p> <p>Ms Schafer has a Bachelor of Laws (Honours) degree and is a Fellow of the Australian Institute of Company Directors.</p>
Martin Wallace	<p>Mr Martin Wallace was initially appointed to the Council for a period of three years from 18 December 2015. In December 2018, Mr Wallace was re-appointed to the Council for a period of two years to December 2020. He was subsequently reappointed for three-month terms in December 2020 and June 2021. On 10 December 2021, Mr Wallace was reappointed for a two-year term.</p> <p>Mr Wallace was previously the Secretary of the Tasmania Department of Treasury and Finance. He has extensive experience in public administration, regulatory policy and business and financial management as well as senior executive experience in the energy and telecommunications sectors.</p> <p>Mr Wallace has a Bachelor of Economics (Honours) degree.</p>
Katrina Groshinski	<p>Ms Katrina Groshinski was appointed to the Council for a period of three years from 18 February 2021.</p> <p>Ms Groshinski is a leading competition and regulatory lawyer and has been a partner at MinterEllison since 2010. She was previously a partner and associate at Clayton Utz from 2003.</p> <p>Ms Groshinski has a Bachelor and Master of Laws.</p>
Michael Borsky	<p>Mr Michael Borsky KC was appointed to the Council for a period of three years from 18 February 2021.</p> <p>Mr Borsky specialises in competition law, practising as King's Counsel at the Victorian Bar. He also serves as a member of the Takeovers Panel and worked previously as a solicitor with Allens Arthur Robinson and as a management consultant with McKinsey &amp; Company.</p> <p>Mr Borsky has a Bachelor of Laws (Honours), Bachelor Science (Comp Sci) and a Bachelor of Civil Law (Oxon).</p>

## National Competition Council meetings

As a general principle, the Council makes decisions during meetings where Councillors can discuss matters and make decisions collectively. As necessary, the Council also adopt decisions by circulation of papers. The Council does this where timely decision making is required and where unanimous agreement is anticipated, or where a matter has been the subject of previous consideration in a meeting. The Council met via video conference on 8 occasions in 2022-23. Table 3.4 provides the dates and attendance at each of these meetings.

**TABLE 3.4: NATIONAL COMPETITION COUNCIL MEETINGS IN 2022-23**

Meeting Date	Attendance
22 August 2022	Julie-Anne Schafer, Martin Wallace, Katrina Groshinski
12 September 2022	Julie-Anne Schafer, Martin Wallace, Katrina Groshinski, Michael Borsky
12 October 2022	Julie-Anne Schafer, Martin Wallace, Katrina Groshinski, Michael Borsky
24 October 2022	Julie-Anne Schafer, Martin Wallace, Katrina Groshinski, Michael Borsky
16 December 2022	Julie-Anne Schafer, Martin Wallace, Katrina Groshinski, Michael Borsky
19 January 2023	Julie-Anne Schafer, Martin Wallace, Katrina Groshinski
31 January 2023	Julie-Anne Schafer, Martin Wallace, Katrina Groshinski, Michael Borsky
24 March 2023	Julie-Anne Schafer, Martin Wallace, Katrina Groshinski

## Secretariat support for the Council

On 1 July 2014 the Council replaced its staff secretariat with an arrangement under which the ACCC provides the Council with secretariat (corporate and professional) services. Therefore, the Council no longer employs staff directly. Staff and other support for the Council's operations are provided by the ACCC under a Memorandum of Understanding (MOU).

As the Council did not have any staff during the 2022-23 financial year, it has no staffing statistics to report in relation to gender, APS classification, employment status (ongoing/non ongoing, full-time/part-time), location or Indigenous status of employees for the period.

## Council remuneration

Remuneration arrangements for the Council are set by the Remuneration Tribunal. The Council does not operate performance pay arrangements. The remuneration of councillors in 2022-23 is set out in Table 3.5.

**TABLE 3.5: COUNCIL REMUNERATION**

Member	Base salary	Superannuation contributions	Total remuneration
Julie-Anne Schafer President	36,063	5,554	41,617
Martin Wallace Councillor	18,031	2,777	20,808
Katrina Groshinski Councillor	18,031	2,786	20,817
Michael Borsky Councillor	18,031	2,777	20,808
<b>Total</b>	90,156	13,894	104,050

## Freedom of information

Agencies 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). Each agency must display on its website a



plan showing what information it publishes in accordance with the IPS requirements. The Council has published a plan and all required information on its website at [www.ncc.gov.au](http://www.ncc.gov.au).

## APS Net Zero Reporting

In accordance with the reporting requirements under section 516A of the *Environment Protection and Biodiversity Conservation Act* 1999, and in line with the Government's APS Net Zero 2030 policy, the National Competition Council is required to publicly report on the emissions from operations.

Emission Source	Scope 1 kg CO <sub>2</sub> -e	Scope 2 kg CO <sub>2</sub> -e	Scope 3 kg CO <sub>2</sub> -e	Total kg CO <sub>2</sub> -e
Electricity (Location Based Approach)	N/A	-	-	-
Natural Gas	-	N/A	-	-
Fleet Vehicles	-	N/A	-	-
Domestic Flights	N/A	N/A	498	498
Other Energy	-	N/A	-	-
<b>Total kg CO<sub>2</sub>-e</b>	-	-	498	498

*The electricity emissions reported above are calculated using the location based approach. When applying the market based method, which accounts for activities such as Greenpower, purchased LGCs and/or being located in the ACT, the total emissions for electricity, are below:*

Emission Source	Scope 1 kg CO <sub>2</sub> -e	Scope 2 kg CO <sub>2</sub> -e	Scope 3 kg CO <sub>2</sub> -e	Total kg CO <sub>2</sub> -e
Electricity (Market Based Approach)	N/A	-	-	-
Natural Gas	-	N/A	-	-
Fleet Vehicles	-	N/A	-	-
Domestic Flights	N/A	N/A	498	498
Other Energy	-	N/A	-	-
<b>Total kg CO<sub>2</sub>-e</b>	-	-	498	498

**Note:** Scope 1 greenhouse gas emissions are the emissions released to the atmosphere as a direct result of an activity, or series of activities at a facility level. Scope 1 emissions are sometimes referred to as direct emissions. Scope 2 are emissions that a organisation causes indirectly and come from where the energy it purchases and uses is produced. Scope 3 includes all other indirect emissions that occur in the upstream and downstream activities of an organisation. In the case of the NCC scope 3 emissions relate to flights.

## Disability reporting

*Australia's Disability Strategy 2021-2031* is Australia's national disability policy framework. It sets out a plan for continuing to improve the lives of people with disability in Australia over the next ten years and builds upon the previous National Disability Strategy 2010-2020.

Disability reporting is included in the Australian Public Service Commission's annual State of the Service Report and the APS Statistical Bulletin. These reports are available on the Australian Public Service Commission's website: [www.apsc.gov.au](http://www.apsc.gov.au).

## Internal and external scrutiny

Internal scrutiny is undertaken via regular meetings of Councillors (see above) and through the Council's Audit and Risk Committee.

Mechanisms for external scrutiny include formal reviews of the National Access Regime and the NGL, and the role of the Council; legal mechanisms (courts and tribunals) for reviewing Ministers' decisions following Council recommendations; and the Commonwealth Ombudsman. The Council is subject to external scrutiny more generally through its published recommendations to governments and through its processes for engaging with stakeholders.

## Independent Audit and Risk Committee

The functions of the Council's independent Audit and Risk Committee are to review and report to the Council on the appropriateness of the Council's financial reporting, performance reporting, risk oversight and management, and systems of internal control. The Audit and Risk Committee Terms of Reference, which determines the audit and risk committee's membership and functions, is published on the Council's website ([https://ncc.gov.au/about/statutory\\_and\\_required\\_reporting](https://ncc.gov.au/about/statutory_and_required_reporting)).

Audit and Risk Committee membership, meeting attendance and remuneration is set out in Table 3.6.

**TABLE 3.6: AUDIT AND RISK COMMITTEE MEMBERSHIP, MEETING ATTENDANCE AND REMUNERATION**

Name	Qualifications, knowledge, skills or experience	Number of meetings attended / total number of meetings	Total remuneration (GST inc)
Chris Ramsden Chair	Chris Ramsden serves as an independent, non-APS Chair of the Audit Committee.  Mr Ramsden is a former Senior Executive in the Australian Public Service, has been the Chief Financial Officer of several government agencies and has held leadership roles in finance, human resources, ICT, project management, governance, internal audit and risk management.  Mr Ramsden is a Fellow of CPA Australia, a Graduate of the Australian Institute of Company Directors, a Certified Executive Coach and holds a Bachelor Degree in Business (Accounting/Finance).	2/2	2 200
Don Cross Member	Don has a background in financial statement audit, internal audit, management assurance and performance and program management. He leverages this background, skills and experience as the Chair or as Member of Audit and Risk Committees for Federal Government departments and Corporate Commonwealth Entities delivering policy, regulatory and service delivery functions. He is a Fellow of	2/2	2 640

the Institute of Chartered Accountants in Australia and New Zealand and a CPA.

Philip Mason Member	Philip Mason performs his role on the Audit Committee on a voluntary basis as an independent APS member.  Mr Mason is an Assistant Secretary in the Department of Infrastructure, Transport, Regional Development and Communications. Mr Mason has over 30 years' experience in public administration at the Commonwealth level, with a particular focus on telecommunications policy, including competition, universal service, consumer protection, technical regulation and international matters. His experience includes the development and administration of legislation, regulations, programs and grants as well as policy.  Mr Mason holds a Bachelor of Arts (Hons) and Diploma in Education from the University of Newcastle.	2/2	0
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## Financial management

The Council's financial management was undertaken on a sound basis involving budget setting, variance analysis and reporting for the organisation as a whole. Financial monitoring and reporting against budget occurred on a monthly basis.

The Council worked with the Treasury, the Department of Finance, the ACCC (as the outsourced provider of financial and secretariat services) and the ANAO as key stakeholders to ensure that financial performance aligns with expectations. The Council sought and obtained from the ACCC a statement as to the ACCC's appropriate management of the Council's finances in 2022-23.

The Council received audit clearance of its financial statements from the ANAO on 7 September 2023. The ANAO issued an unmodified audit report.

## Asset management and purchasing

The limited asset management and purchasing required by the Council is undertaken by the ACCC under the MOU discussed earlier in this report.

The Council supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises and Small Enterprise participation statistics are available on the Department of Finance's website.

## Advertising and market research

The Council did not conduct any advertising campaigns during 2022-23.

## Risk management, fraud control and other policies

As part of the secretariat services arrangements the Council relies upon the risk oversight and management principles and systems put in place by the ACCC to meet Commonwealth requirements including in relation to:

- Risk Management
- Budget estimates under the PGPA Act
- Annual financial statements under the PGPA Act
- Fraud control & fraud risk assessment under the PGPA Act
- Procurement under the PGPA Act
- Commonwealth Protective Security Policy Framework
- Reporting under the Legal Services Directions 2017 and *Freedom of Information Act 1982*
- Workplace Health and Safety
- Workplace Diversity
- Strategic Workforce Plan

Some minor modifications to standard ACCC processes are made, as required, to make them fit for purpose for the Council.

Risk management for the Council is considered by the Council's Audit Committee at regular meetings.

The Council also has in place a fraud control plan which takes into account the Commonwealth Fraud Control Framework. There were no instances of fraud or allegations of fraud in 2022-23.

## Consultants and specialists

The Council engages external consultants and purchases specialist services where the requisite skills for a task are not available within the Council or the ACCC.

The Council purchases external legal and economic advice services as required to assist its work under Part IIIA of the CCA, procuring these services through open or limited tender (including through panel arrangements) as appropriate and in accordance with the PGPA Act and related regulations (including the Commonwealth Procurement Rules). Prior to procuring these services, the Council takes into account the skills and resources that are required for the task, the skills that are available internally and the cost-effectiveness of engaging external expertise.

During 2022-23, no new reportable consultancy contracts were entered into. There were two ongoing consultancy contracts active during the period involving total actual expenditure of \$4 840 (Table 3.7).

During 2022-23, no new non-consultancy contracts were entered into. There was one ongoing non-consultancy contract active during the period involving total actual expenditure of \$850 000 (Table 3.8).

Annual reports contain information about actual expenditure on reportable consultancy and non-consultancy contracts. Information on the value of reportable consultancy and non-consultancy contracts is available on the AusTender website.

**TABLE 3.7: EXPENDITURE ON REPORTABLE CONSULTANCY CONTRACTS IN 2022-23**

	Number	Expenditure \$ (GST inc.)
New contracts entered into during the reporting period	0	0
Ongoing contracts entered into during a previous reporting period	2	4 840
Total	2	4 840

**TABLE 3.8: EXPENDITURE ON REPORTABLE NON-CONSULTANCY CONTRACTS IN 2022-23**

	Number	Expenditure \$ (GST inc.)
New contracts entered into during the reporting period	0	0
Ongoing contracts entered into during a previous reporting period	1	850 000
Total	1	850 000

**TABLE 3.9: ORGANISATIONS RECEIVING A SHARE OF REPORTABLE CONSULTANCY CONTRACT EXPENDITURE IN 2022-23**

Name of Organisation	Expenditure \$ (GST inc.)
Ramsden Consulting Services (40 456 062 275)	2 200
DJX Advisory Pty Ltd (44 115 638 803)	2 640

**TABLE 3.10: ORGANISATIONS RECEIVING A SHARE OF REPORTABLE NON-CONSULTANCY CONTRACT EXPENDITURE IN 2022-23**

Name of Organisation	Expenditure \$ (GST inc.)
ACCC (94 410 483 623)	850 000

# 4 Financial statements



## INDEPENDENT AUDITOR'S REPORT

### To the Treasurer

#### Opinion

In my opinion, the financial statements of the National Competition Council (the Entity) for the year ended 30 June 2023:

- (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 2023 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 2023 and for the year then ended:

- Statement by the President and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes to 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 President 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 President is also responsible for such internal control as the President 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 President 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 President is also responsible for disclosing, as applicable,

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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

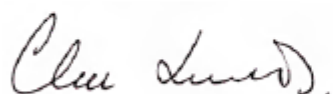
My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that 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



Clea Lewis  
Executive Director

Delegate of the Auditor-General  
Canberra

7 September 2023



## NATIONAL COMPETITION COUNCIL CONTENTS

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## NATIONAL COMPETITION COUNCIL

## STATEMENT BY THE PRESIDENT AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2023 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 National Competition Council will be able to pay its debts as and when they fall due.



Julie-Anne Schafer  
President  
National Competition Council

7 September 2023



Peter Maybury  
Chief Financial Officer  
Australian Competition & Consumer Commission

7 September 2023

**NATIONAL COMPETITION COUNCIL**  
**Statement of Comprehensive Income**  
*for the year ended 30 June 2023*

	Notes	2023 \$	2022 \$	Original Budget \$
<b>NET COST OF SERVICES</b>				
<b>Expenses</b>				
Employee benefits	2.1A	104,050	94,962	104,000
Suppliers	2.1B	896,580	914,411	1,613,000
<b>Total expenses</b>		<b>1,000,630</b>	<b>1,009,373</b>	<b>1,717,000</b>
<b>Own-Source income</b>				
Resources received free of charge - Audit		34,000	34,000	34,000
<b>Total own-source income</b>		<b>34,000</b>	<b>34,000</b>	<b>34,000</b>
<b>Net (cost of) services</b>		<b>(966,630)</b>	<b>(975,373)</b>	<b>(1,683,000)</b>
Revenue from Government	3.1A	1,683,000	1,731,000	1,683,000
<b>Surplus</b>		<b>716,370</b>	<b>755,627</b>	<b>-</b>
<b>Total Comprehensive income</b>		<b>716,370</b>	<b>755,627</b>	<b>-</b>

The above statement should be read in conjunction with the accompanying notes.

**NATIONAL COMPETITION COUNCIL**  
**Statement of Financial Position**  
*as at 30 June 2023*

	2023 \$	2022 \$	Original Budget \$
<b>ASSETS</b>			
<b>Financial assets</b>			
Cash and cash equivalents	39,869	50,000	50,000
Appropriation receivable	3,364,000	3,382,000	3,382,000
GST receivable	201	452	-
Other receivables	845	-	-
<b>Total financial assets</b>	<b>3,404,915</b>	<b>3,432,452</b>	<b>3,432,000</b>
<b>Non-financial assets</b>			
Prepayments	213,257	213,168	213,000
<b>Total non-financial assets</b>	<b>213,257</b>	<b>213,168</b>	<b>213,000</b>
<b>Total assets</b>	<b>3,618,172</b>	<b>3,645,620</b>	<b>3,645,000</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	187	2,331	2,000
Employee related	2,791	2,392	2,000
<b>Total payables</b>	<b>2,978</b>	<b>4,723</b>	<b>4,000</b>
<b>Total liabilities</b>	<b>2,978</b>	<b>4,723</b>	<b>4,000</b>
<b>Net assets</b>	<b>3,615,194</b>	<b>3,640,897</b>	<b>3,641,000</b>
<b>EQUITY</b>			
Contributed equity	81,000	81,000	81,000
Retained surplus	3,534,194	3,559,897	3,560,000
<b>Total equity</b>	<b>3,615,194</b>	<b>3,640,897</b>	<b>3,641,000</b>

The above statement should be read in conjunction with the accompanying notes.

**NATIONAL COMPETITION COUNCIL**  
**Statement of Changes in Equity**  
*for the year ended 30 June 2023*

	Retained Surplus		Contributed Equity		Total Equity	
	2023	2022	2023	2022	2023	2022
	\$	\$	\$	\$	\$	\$
Opening balance at 1 July	3,559,897	3,403,101	81,000	81,000	3,640,897	3,484,101
Comprehensive Income						
Surplus for the period	716,370	755,627	-	-	716,370	755,627
Total comprehensive income	716,370	755,627	-	-	716,370	755,627
Transactions with owners						
Returns of operating appropriation	(742,073)	(598,831)	-	-	(742,073)	(598,831)
Total transactions with owners	(742,073)	(598,831)	-	-	(742,073)	(598,831)
Closing balance as at 30 June	3,534,194	3,559,897	81,000	81,000	3,615,194	3,640,897

The above statement should be read in conjunction with the accompanying notes.

**NATIONAL COMPETITION COUNCIL****Cash Flow Statement***for the year ended 30 June 2023*

	2023 \$	2022 \$	Original Budget \$
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	960,628	1,113,223	1,683,000
Net GST received	1,495	14,046	165,000
<b>Total cash received</b>	<b>962,123</b>	<b>1,127,269</b>	<b>1,848,000</b>
<b>Cash used</b>			
Employees	(103,651)	(94,563)	(104,000)
Suppliers	(866,902)	(1,008,251)	(1,579,000)
Section 74 receipts transferred to OPA	(1,701)	(15,054)	(165,000)
<b>Total cash used</b>	<b>(972,254)</b>	<b>(1,117,868)</b>	<b>(1,848,000)</b>
<b>Net cash from/(used by) operating activities</b>	<b>(10,131)</b>	<b>9,401</b>	<b>-</b>
<b>Net increase/(decrease) in cash held</b>	<b>(10,131)</b>	<b>9,401</b>	<b>-</b>
Cash and cash equivalents at the beginning of the reporting period	50,000	40,599	50,000
<b>Cash and cash equivalents at the end of the reporting period</b>	<b>39,869</b>	<b>50,000</b>	<b>50,000</b>

The above statement should be read in conjunction with the accompanying notes.

**NATIONAL COMPETITION COUNCIL****Administered Schedules***for the year ended 30 June 2023***Administered Schedule of Comprehensive Income**

	2023	2022	Original Budget
	\$	\$	\$
<b>Income</b>			
<b>Non-taxation revenue</b>			
Application fees	7,500	-	8,000
<b>Total income</b>	7,500	-	8,000
<b>Surplus</b>	7,500	-	8,000
<b>Total comprehensive income</b>	7,500	-	8,000

**Administered Reconciliation Schedule**

Application fees of \$7,500 received in 2022-23 were transferred to the Official Public Account (OPA). There were no administered assets at the beginning or end of the reporting period.

**Administered Cash Flow Statement**

Application fees are classified as cash received from operating activities. These fees were transferred to the OPA during 2022-23, resulting in nil cash and cash equivalents at the beginning and end of the reporting period. The actual amounts are in line with budgeted expectations, with the NCC budgeting \$8,000 cash received from operating activities and \$8,000 of cash transfers to the OPA.

## NATIONAL COMPETITION COUNCIL OVERVIEW AND BUDGETARY REPORTING

for the year ended 30 June 2023

The National Competition Council (NCC) is an Australian Government controlled not-for-profit entity. The role of the National Competition Council (Council) is to make recommendations concerning access to infrastructure services under the National Access Regime prescribed in Part IIIA of the *Competition and Consumer Act 2010* (Cth) (CCA) and recommendations and decisions under the National Gas Law (NGL).

The NCC has an office located at Lonsdale Street, Melbourne.

The continued existence of the NCC in its present form and with its present programs is dependent on Government policy and on continuing funding by Parliament for the NCC's administration and programs.

### The Basis of Preparation

The financial statements are general purpose financial statements and are required by section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The financial statements have been prepared in accordance with:

- a) *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR); and
- b) Australian Accounting Standards and Interpretations – simplified disclosures for Tier 2 Entities under AASB 1060 issued by the Australian Accounting Standards Board (AASB) that apply for that 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 stated at fair value. Except where stated, no allowance is made for the effect of changing prices on the operating results or the financial position. The financial statements are presented in Australian dollars.

### New Accounting Standards

**AASB 2021-2 Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates**

**AASB 2021-6 Amendments to Australian Accounting Standards - Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards**

The NCC has adopted two amending standards, AASB 2021-2 and 2021-6, earlier than the application date stated in the standards. These amending standards have been adopted in the 2022-23 financial year.

The amending standards require the disclosure of material, rather than significant, accounting policies. The amendments also clarify what is considered a change in accounting policy compared to a change in accounting estimate. These amending standards have not materially impacted the NCC financial statements and all disclosures presented within the financial statements have been prepared in accordance with AASB 2021-2 and 2021-6 requirements.

Prior to the signing of the statements by the Accountable Authority and Chief Financial Officer, no other new, revised or amending standards or interpretations were issued that would have a material effect on the NCC's financial statements in the current reporting period.

### Related Parties

The NCC is an Australian Government controlled entity. Related parties to this entity are Key Management Personnel including the Portfolio Minister and Executive, and other Australian Government entities.

The Australian Competition and Consumer Commission (ACCC) provides services in fulfilling the secretariat role under the Memorandum of Understanding (MOU) between the two entities. Expenditure incurred under this agreement in 2022-23 totals \$850,000 (exclusive of GST). The MOU also provides that an appropriately qualified SES officer (from the ACCC) will be designated as Executive Director of the NCC.

Giving consideration to relationships with other related entities, and transactions entered into during the reporting period by the entity, it has been determined that there are no related party transactions to be separately disclosed.

### Key Management Personnel

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.

The entity has determined the key management personnel to be the NCC president and councillors. In addition, pursuant to the MOU between the NCC and ACCC, an executive director from the ACCC. Key management personnel remuneration is reported in Note 2.1A.



**Significant Accounting Judgements and Estimates**

No accounting assumptions and estimates have been identified that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next reporting period.

**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 NCC gains control of the appropriation. Appropriations receivable are recognised at their nominal amounts.

**Employee Benefits - Superannuation and Leave Benefits**

Councillors are members of accumulation superannuation schemes.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year. Councillors do not receive leave benefits.

**Financial Instruments**

The NCC classifies its financial assets at amortised cost.

The classification depends on both the entity's business model for managing the financial assets and the contractual cash flow characteristics at the time of initial recognition. Financial assets are recognised when the entity becomes a party to the contract and has a legal right to receive cash. Financial assets are derecognised when the contractual cash flows from the financial asset expire or are transferred.

Cash is recognised at its nominal amount. Cash and cash equivalents includes cash held on deposit in bank accounts.

Financial liabilities, consisting of trade payables, are initially measured at fair value net of transaction costs. Trade payables are recognised to the extent the goods and services have been received and are derecognised upon payment.

**Contingent Liabilities and Contingent Assets**

Contingent liabilities and contingent assets are not recognised in the statement of financial position. 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.

The NCC has no quantifiable or unquantifiable contingent assets or liabilities as at 30 June 2023 (2022: nil).

**Events After the Reporting Period**

NCC has no events after the reporting period to disclose.

**Reporting of Administered Activities**

Administered revenues and cash flows are disclosed in the administered schedules. Except where otherwise stated, Administered items are accounted for on the same basis and using the same policies as for departmental items.

Revenue collected by the Council for use by the Government rather than the Council is administered revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance. These transfers to and from the OPA are adjustments to the administered cash held by the Council on behalf of the Government, with these impacts disclosed in the administered schedules.

**Note 1 - Budgetary Reporting**

Explanations of major variances between the actual amounts presented in the financial statements and the corresponding original budget amounts.

**Statement of Comprehensive Income and Cash flow Statement**

The NCC underspend was primarily due to supplier expenses being \$716,420 lower than budgeted in 2022-23. Supplier expenses will fluctuate based on the level of activity required for the year and were below budget due to lower levels of activity.

**Affected line items**

Supplier expenses  
Supplier cash used  
Appropriations cash received

**Statement of Financial Position and Statement of Changes in Equity**

The budgeted Statement of Financial Position and Statement of Changes in Equity are based on a break-even position being achieved. Variances to budgeted amounts in these statements are primarily due to the impact of underspends in both the current and prior year, as well as adjustments for the repeal of prior year unspent appropriations. While appropriation receivables were close to budgeted amounts, the closing balance represents the net effect of:

**Affected line items**

Appropriation Receivable  
Retained surplus

- An increase in the appropriation receivable due to a current year surplus; and
- A decrease in the appropriation receivable following repeal of the 2020-21 Appropriation Acts.

**NATIONAL COMPETITION COUNCIL**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
*for the year ended 30 June 2023*

**2.1 Expenses**

	2023 \$	2022 \$
<b>2.1A: Employee Benefits</b>		
Wages and salaries (short-term employee benefits)	90,157	82,282
Superannuation - accumulation plans (post-employment benefits)	13,893	12,680
<b>Total employee benefits</b>	<b>104,050</b>	<b>94,962</b>

Employee benefits reported in this note also represent total remuneration paid to key management personnel.

The total number of key management personnel that are included in the above figures is 4 (2022: 4). There were no performance bonuses paid in 2023 (2022: Nil).

The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister and Executive Director. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the entity. The Executive Director is appointed pursuant to the MOU between the ACCC and NCC where expenditure is incurred as part of the agreement.

	2023 \$	2022 \$
<b>2.1B: Suppliers</b>		
<b>Goods and services supplied or rendered</b>		
Legal expenses	96	10,303
Consultants and contracted services	888,400	888,800
Travel expenses	703	1,999
Information technology and communications	1,426	4,497
Property operating expenses	3,330	3,208
Information management expenses	750	707
Other administration expenses	1,788	4,712
<b>Total goods and services supplied or rendered</b>	<b>896,493</b>	<b>914,226</b>
<b>Other suppliers</b>		
Workers compensation expenses	87	185
<b>Total other suppliers</b>	<b>87</b>	<b>185</b>
<b>Total suppliers</b>	<b>896,580</b>	<b>914,411</b>

**NATIONAL COMPETITION COUNCIL**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
*for the year ended 30 June 2023*

**3.1 Appropriations**

	2023 \$	2022 \$
<b>3.1A: Annual Appropriations ('Recoverable GST exclusive')</b>		
Ordinary annual services <sup>1</sup>	1,683,000	1,731,000
Section 74 receipts	206	1,008
Total appropriation	1,683,206	1,732,008
Appropriation applied (current and prior years) <sup>2</sup>	969,264	1,089,776
Variance	713,942	642,232

1. Current year funding has been reduced by \$79,000 for amounts withheld under section 51 of the *Public Governance, Performance and Accountability Act 2013*.

2. Appropriation applied includes use of both current and prior year appropriation funding. The variance between appropriation funding available and appropriation applied in both financial years is consistent with the overall operating result.

	2023 \$	2022 \$
<b>3.1B: Unspent Annual Appropriations ('Recoverable GST exclusive')</b>		
<b>Departmental</b>		
Appropriation Act (No. 1) 2019-20	-	598,831
Supply Act (No. 1) 2020-21	34,073	943,000
Appropriation Act (No. 1) 2020-21	708,000	708,000
Appropriation Act (No. 1) 2021-22	1,681,000	1,731,000
Supply Act (No. 1) 2022-23	734,000	-
Supply Act (No. 3) 2022-23 <sup>1</sup>	1,028,000	-
<b>Total departmental</b>	<b>4,185,073</b>	<b>3,980,831</b>

**Notes** - In addition to the unspent appropriations disclosed above, at 30 June 2023 the NCC had cash and cash equivalents of \$39,869 (2022: \$50,000).

1. The unspent balance includes \$79,000 withheld under section 51 of the *Public Governance, Performance and Accountability Act 2013*.

The remaining unspent balance of the 2020-21 appropriations lapsed on 1 July 2023. This amount was legally available, but was removed from the appropriation receivables balance at 30 June 2023.

**4.1 Current / Non-Current Classification of Assets and Liabilities**

It is expected that \$1,637,000 (2022: \$1,762,000) of the appropriation receivable will be recovered in more than 12 months.

All other amounts are expected to be recovered or settled within 12 months.

## Annual report list of requirements

PGPA Rule Reference	Part of Report	Description	Requirement	Page
17AD(g)	Letter of transmittal			
17AI	-	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	3
17AD(h)	Aids to access			
17AJ(a)	-	Table of contents.	Mandatory	4
17AJ(b)	-	Alphabetical index.	Mandatory	53
17AJ(c)	-	Glossary of abbreviations and acronyms.	Mandatory	5
17AJ(d)	-	List of requirements.	Mandatory	47
17AJ(e)	-	Details of contact officer.	Mandatory	2
17AJ(f)	-	Entity's website address.	Mandatory	2
17AJ(g)	-	Electronic address of report.	Mandatory	2
17AD(a)	Review by accountable authority			
17AD(a)	-	A review by the accountable authority of the entity.	Mandatory	7
17AD(b)	Overview of the entity			
17AE(1)(a)(i)	-	A description of the role and functions of the entity.	Mandatory	26
17AE(1)(a)(ii)	-	A description of the organisational structure of the entity.	Mandatory	28
17AE(1)(a)(iii)	-	A description of the outcomes and programmes administered by the entity.	Mandatory	27
17AE(1)(a)(iv)	-	A description of the purposes of the entity as included in corporate plan.	Mandatory	26
17AE(1)(aa)(i)	-	Name of the accountable authority or each member of the accountable authority.	Mandatory	28
17AE(1)(aa)(ii)	-	Position of the accountable authority or each member of the accountable authority.	Mandatory	28
17AE(1)(aa)(iii)	-	Period as the accountable authority or member of the accountable authority within the reporting period.	Mandatory	28
17AE(1)(b)	-	An outline of the structure of the portfolio of the entity.	Portfolio departments - mandatory	N/A
17AE(2)	-	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	28

17AD(c)	Report on the Performance of the entity			
Annual performance Statements				
17AD(c)(i); 16F	-	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory	19
17AD(c)(ii)	Report on Financial Performance			
17AF(1)(a)	-	A discussion and analysis of the entity's financial performance.	Mandatory	27
17AF(1)(b)	-	A table summarising the total resources and total payments of the entity.	Mandatory	27
17AF(2)	-	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.	N/A
17AD(d)	Management and Accountability			
Corporate Governance				
17AG(2)(a)	-	Information on compliance with section 10 (fraud systems).	Mandatory	33
17AG(2)(b)(i)	-	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	3
17AG(2)(b)(ii)	-	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	3
17AG(2)(b)(iii)	-	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory	3
17AG(2)(c)	-	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	28
17AG(2)(d) – (e)	-	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	32
Audit and Risk Committee				
17AG(2A)(a)	-	A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory	31
17AG(2A)(b)	-	The name of each member of the entity's audit committee.	Mandatory	31

17AG(2A)(c)	-	The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory	31
17AG(2A)(d)	-	Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory	31
17AG(2A)(e)	-	The remuneration of each member of the entity's audit committee.	Mandatory	31
<b>External Scrutiny</b>				
17AG(3)	-	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory	31
17AG(3)(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	22
17AG(3)(b)	-	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	N/A
17AG(3)(c)	-	Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory	N/A
<b>Management of Human Resources</b>				
17AG(4)(a)	-	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory	30
17AG(4)(aa)	-	Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following: (a) statistics on full-time employees; (b) statistics on part-time employees; (c) statistics on gender; (d) statistics on staff location.	Mandatory	30
17AG(4)(b)	-	Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: Statistics on staffing classification level; Statistics on full-time employees; Statistics on part-time employees; Statistics on gender; Statistics on staff location; Statistics on employees who identify as Indigenous.	Mandatory	30
17AG(4)(c)	-	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	30
17AG(4)(c)(i)	-	Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory	30
17AG(4)(c)(ii)	-	The salary ranges available for APS employees by classification level.	Mandatory	30

17AG(4)(c)(iii)	-	A description of non-salary benefits provided to employees.	Mandatory	30
17AG(4)(d)(i)	-	Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory	N/A
17AG(4)(d)(ii)	-	Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory	N/A
17AG(4)(d)(iii)	-	Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory	N/A
17AG(4)(d)(iv)	-	Information on aggregate amount of performance payments.	If applicable, Mandatory	N/A
<b>Assets Management</b>				
17AG(5)	-	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.	If applicable, Mandatory	N/A
<b>Purchasing</b>				
17AG(6)	-	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	Mandatory	33
<b>Reportable consultancy contracts</b>				
17AG(7)(a)	-	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	34
17AG(7)(b)	-	A statement that <i>"During [reporting period], [specified number] new reportable consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]."</i>	Mandatory	34
17AG(7)(c)	-	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	33
17AG(7)(d)	-	A statement that <i>"Annual reports contain information about actual expenditure on reportable consultancy contracts. Information on the value of reportable consultancy contracts is available on the AusTender website."</i>	Mandatory	34
<b>Reportable non-consultancy contracts</b>				
17AG(7A)(a)	-	A summary statement detailing the number of new reportable non-consultancy contracts entered into during the period; the total actual expenditure on such	Mandatory	34



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).

17AG(7A)(b)	-	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>	Mandatory	34
17AD(daa)		Additional information about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts		
17AGA	-	Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts.	Mandatory	34
<b>Australian National Audit Office Access Clauses</b>				
17AG(8)	-	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	N/A
<b>Exempt contracts</b>				
17AG(9)	-	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	N/A
<b>Small business</b>				
17AG(10)(a)	-	A statement that <i>“[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.”</i>	Mandatory	33
17AG(10)(b)	-	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	33
17AG(10)(c)	-	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that <i>“[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.”</i>	If applicable, Mandatory	N/A



Financial Statements				
17AD(e)	-	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory	35
Executive Remuneration				
17AD(da)	-	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule.	Mandatory	30
17AD(f)	Other Mandatory Information			
17AH(1)(a)(i)	-	If the entity conducted advertising campaigns, a statement that <i>“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.”</i>	If applicable, Mandatory	N/A
17AH(1)(a)(ii)	-	If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory	33
17AH(1)(b)	-	A statement that <i>“Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”</i> .	If applicable, Mandatory	N/A
17AH(1)(c)	-	Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory	31
17AH(1)(d)	-	Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory	30
17AH(1)(e)	-	Correction of material errors in previous annual report.	If applicable, mandatory	N/A
17AH(2)	-	Information required by other legislation.	Mandatory	21

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