



## Open Government Partnership

### Independent Reporting Mechanism

#### Australia:

### Comments received on the End-of-Term Report for the first OGP action plan (2016-2018)

The IRM received the following comments on the End-of-Term Report for the 2016-2018 action plan during the public comment period from Peter Timmins:

Daniel Stewart has produced a detailed report, thoroughly researched and no doubt in accordance with the model reporting guidelines set out in the IRM Procedure Manual.

However the report is disappointing in a number of respects:

One, the unacknowledged and unexplained lateness in public release of the report.

Two, the Overview, the section of the report that has some chance of being read by a generally interested audience, presents a limited summary and an overly positive account of performance.

Three, there are few in a better position than the independent reviewer to draw on his close study of development of the plan and steps to implement commitments to make pertinent recommendations and suggestions, but the report contains none.

I. Unacknowledged and unexplained lateness in public release of the report.

Other IRM country reports illustrate it is not uncommon for drafts or final reports to be published up to 12 months after the period they cover.

Documentation about the “IRM Refresh” project underway since 2017 indicate reports are usually published after nine to twelve months but cite a new practice signed off by the international Steering Committee at the February 2020 meeting in Berlin that reports in future will be published within six months.

This report on Australia’s performance to 30 June 2018 in implementing commitments made in December 2016 was released 20 months after the end of term.

Could this be a new record ?

On a number of occasions over the last six months, maybe longer, there were public statements that the report would be published ‘soon.’

The OGP has promoted the IRM as a ‘credible voice that builds credibility for the Partnership.’ Silence for 20 months about performance, outcomes and results in delivering on open government commitments raises the obvious question, what happened here?

Were there significant differences about the draft report within the IRM or with the Australian government, or are there other reasons for delay?

By way of contrast the IRM end of term report on the New Zealand government's plan for the same 2016-2018 period was finalised in February 2019.

The utility and value of a report twenty months after the end of term and, to make matters worse, eight months after the period covered by the second two year plan, is limited.

While this shortcoming will not be addressed by an explanation about the delay, the final report to be credible should at least include an acknowledgement and some indication of what led to this outcome

## 2. Overly positive account of performance in Overview section.

Most observers, analysts and those who take a close interest in these issues would be surprised to read Australia in 2016-2018 made "significant progress" in implementing open government commitments, and that there had been "major changes in practice in policy areas such as combating corporate crime, improving the accessibility of government-held information, and enhancing public participation in decision making"

They might agree with the next part of the lead paragraph, that the OGP plan had not amounted to much because "the majority of commitments had generally marginal or no discernible effect on opening up government.... "

Those views are not here, there or relevant to the task undertaken by the IRM reviewer in assessing performance against the commitments in the plan and the results and outcomes.

However the overview section highlights the positives and while noting the limited effect of it all on opening government, fails to draw attention to significant shortcomings in implementation that were often evident at the time the mid term assessment was undertaken, and are in the detailed reports on commitments that follow.

One example is the business as usual approach to consultation and engagement that saw little in the way of information and involvement in steps taken to implement commitments on open contracting, beneficial ownership, extractive industries transparency, high value data sets, Information management and access laws, and national integrity framework.

The "Consultation with Civil Society during Implementation" subsection focuses on involvement of the Open Government Forum in implementation oversight and makes no mention of non existent, poor, limited, unsatisfactory engagement of stakeholders and other interested parties at various stages in the management of implementation of these commitments.

Limitations placed on the reviewer through a requirement to adhere to the model for reporting set out in the IRM Procedure Manual may be the reason for no mention in the report of the OGP Participation and Co-Creation Standards to the extent they apply to implementation.

A rather different picture might emerge if Australia was assessed on the following Basic and Advanced Standards that have not been adopted or fully adopted:

1. Government collects and publishes a document repository on the national OGP website/webpage, which provides a historical record and access to all documents related to the national OGP process, including (but not limited to) consultation documents, National Action Plans, government self-

assessments, IRM reports and supporting documentation of commitment implementation (e.g links to databases, evidence of meetings, publications)

2. The government and/or multi-stakeholder forum conducts outreach and awareness raising activities to relevant stakeholders (e.g. citizens, civil society organisations, government departments, subnational governments, parliament, academics, private sector, etc.) to inform them of the OGP process.
3. Non-governmental members of the multi-stakeholder forum are selected through a fair and transparent process. The forum's rules should allow non-governmental members to lead their own selection process.
4. The government holds at least two open meetings with civil society (one per year) on the implementation of the NAP.
5. The government shares the link to the IRM report with other government institutions and stakeholders to encourage input during the public comment phase.
6. The government and/or multi-stakeholder forum conduct targeted outreach to relevant stakeholder groups to raise awareness of open government, the OGP and opportunities to get involved.
7. The multi-stakeholder forum coordinates multiple face-to-face outreach and engagement events around the country, which are open and accessible to any interested members of the public, civil society and other stakeholders to attend (e.g., at suitable times and locations).
8. The multi-stakeholder forum oversees the publication of regular joint government-civil society updates on the progress of commitments in addition to government self-assessment reports.
9. Government provides members of civil society, through the national multi-stakeholder forum or otherwise, with regular (i.e. at least biannual) opportunities to meet with the responsible minister to review progress, the government self-assessment and IRM reports.
10. Working groups including a range of relevant stakeholders are formed for implementing and monitoring each commitment, with their members selected through appropriate methods (e.g. by the multi-stakeholder forum or through an open call).
11. Government proactively organizes frequent (i.e. at least quarterly) meetings of each working group, who produce regular (i.e. at least biannual) jointly agreed progress updates on the implementation of the commitment. These updates should form the basis for the government self-assessment report.

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3. Limited value and the absence of recommendations or suggestions for improved performance lateness limits the value of this report.

While the IRM is an enabler not an enforcer in undertaking independent oversight of member country management of its OGP commitments and the Procedure Manual apparently does not require recommendations in a final report, it is also regrettable that the report is mostly silent on the fate of recommendations in the mid term report and scope for improvement identified since.

Even at this late stage independent expert views on lessons to be learned from how Australia traveled through its first engagement with the OGP and how it might improve would be important and useful.