

Independent Reporting Mechanism (IRM): Australia Design Report 2018–2020

Daniel Stewart, in an independent capacity

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Executive Summary: Australia

Australia's second OGP action plan builds on themes and policy areas from the first action plan. The eight commitments include efforts to improve access to information and civic participation, and also increase opportunities for state and territory governments to participate in open government reforms through the OGP process. While government and civil society stakeholders engaged in a collaborative co-creation process in the development of the action plan, there remains opportunity to expand engagement with stakeholders across a broader range of interests.

The Open Government Partnership (OGP) is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive and accountable. The Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Australia joined OGP in 2015. Since, Australia has implemented one action plan. This report evaluates the design of Australia's second action plan.

The Department of the Prime Minister and Cabinet (PM&C) is responsible for coordinating OGP activities. A multi-stakeholder forum comprising government and nongovernment stakeholders guide the action plan development, implementation, and monitoring.

The process to develop Australia's second OGP action plan commenced in the middle of the first action plan's implementation period, in July 2017. The forum initially received 58 ideas and proposals to be considered for inclusion in the action plan. These ideas were then shortlisted to 14, before eventually being narrowed to the final eight commitments. These eight commitments cover a range of thematic areas: anti-corruption, political financing, open data, public service delivery, information transparency, public engagement, and open contracting.

Stemming from a co-creation process to vet proposals, a number of potential open government reforms were not included in this action plan. Themes such as beneficial ownership and whistleblower protection, were not included, despite previous IRM recommendations to consider further consultation in these areas.

Table 1: At a Glance

Participating since 2015
Action plan under review: 2018–2020
Report type: Design
Number of commitments: 8

Action plan development

Is there a multi-stakeholder forum: Yes
Level of public influence: Collaborate
Acted contrary to OGP process: No

Action plan design

Commitments relevant to OGP values: 7 (88%)
Transformative commitments: 0 (0%)
Potentially starred: 0 (0%)

Overall, the IRM's assessment of commitments in Australia's second action plan suggests a targeted focus on key policy areas, but a lack of commitment specificity limits opportunities to identify their relevance to OGP values or their potential impact on changing government processes.

Table 2: Noteworthy Commitments

| Commitment Description | Moving Forward | Status at the End of Implementation Cycle |
|--|--|---|
| <p>3. Improve the sharing, use and reuse of public data.</p> <p>Continue the implementation of data governance reforms to increase access and use of data in consultation with citizens, including businesses, civil society groups, research and non-profit sectors.</p> | <p>Develop a framework to evaluate information disclosure by the government, including compliance in line with legislative requirements and guidelines from the National Data Commissioner. Engage state and territory governments in future action plans on information transparency.</p> | <p><i>Note: this will be assessed at the end of the implementation cycle.</i></p> |
| <p>6. Enhance public engagement skills in the public service.</p> <p>Develop an Open Dialogue Roadmap to assist public servants in designing and implementing open and deliberative engagement processes followed by the establishment of the APS Engagement Hub.</p> | <p>Include the APS Engagement Hub in facilitating the Open Government Forum and develop a method for evaluating the impact of the commitment's implementation in changing government practice. Explore opportunities to replicate the model at other levels of government.</p> | <p><i>Note: this will be assessed at the end of the implementation cycle.</i></p> |

Recommendations

Table 3: Five Key IRM Recommendations

| |
|---|
| Build on previous and existing commitments, including enhancing information transparency and strengthening the federal anti-corruption framework. |
| Develop a whole-of-government approach in monitoring and evaluating commitment implementation. |
| Enhance the relevance of commitments to core OGP values and facilitate stronger adherence to these values throughout related processes. |
| Establish a collaborative forum to safeguard the quality and raise the ambition of commitments. |
| Expand the thematic coverage of future action plans by including commitments on new policy areas. |

About the Author

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OGP's Independent Reporting Mechanism (IRM) assesses the development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.



I. Introduction

The Open Government Partnership is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Civil society and government leaders use the evaluations to reflect on their own progress and determine if actions have made an impact on people's lives.

Australia joined OGP in 2015 and released its first action plan (NAPI) on 7 December 2016. This report covers the development and design of Australia's second action plan for 2018–2020 (NAP2).

The Independent Reporting Mechanism of OGP has partnered with Daniel Stewart, who carried out this evaluation. The IRM aims to inform ongoing dialogue around development and implementation of future commitments. For a full description of the IRM's methodology, please visit <https://www.opengovpartnership.org/about/independent-reporting-mechanism>.

II. Open Government Context in Australia

Australia has a positive record of open government riding on the achievements of robust institutions. Government and civil society have collaborated to consistently demonstrate strong performance in key areas such as open data and anticorruption—both of which were included in the two OGP action plans thus far. Australia's second plan builds on prior reforms, thereby responding to key policy priorities. However, as challenges around public participation and transparency persist, Australia is presented with significant opportunity for future reform.

Australia's first OGP action plan had 15 commitments that covered a range of themes in line with OGP values. Notable results were reported on several commitments. For example, a commitment to combat corporate crime by reforming legislative frameworks successfully incorporated public input through consultation.¹ Promising results were also found from the implementation of a commitment to improve the discoverability and accessibility of public data and information by optimising the use of online portals and digital platforms.²

Under the second action plan, the multistakeholder forum has included fewer, but a more targeted and focused set of commitments. These commitments address key open government areas, such as anticorruption, open contracting, open data, and political financing transparency. The action plan also includes a commitment to raise awareness among subnational stakeholders of opportunities to participate in the OGP process.

Transparency and Access to Information

Australia is developing a strong record in open data but, as the lack of progress on commitments in its first action plan suggests, reforming access to government information at the Commonwealth level seems to have stalled. Australia is ranked 2nd in the Global Open Data Index (2016–2017), which assesses the level of open government data publication.³ Australia is ranked 10th in the OECD Open-Useful-Reusable (OUR) Government Data Index (2017), which assesses governments' efforts to implement open data.⁴ Australia ranked 10th in the World Justice Project Rule of Law Index, and 9th in relation to open government in 2017–2018.⁵ Along with several transparency-related projects in the first action plan, the Commonwealth government introduced the *Modern Slavery Act 2018* (Cth), which established a public register and required organisations with revenue over AU\$ 100 million to report annually on the risks of modern slavery in their operations and supply chains.⁶

However, the right to access government information in Australia was assessed as relatively low in the global right to information index, which ranks Australia 67th out of 128 countries.⁷ This index describes Australia's access laws as problematic on several fronts including the limited scope, range of exceptions, and weak public interest override.⁸ A review of information management and access laws, policies, and practices at the Commonwealth level was included as one of the commitments in the first action plan adopted in 2016. However, as reported in the end-of-term report, there has been limited progress on that review, beyond undisclosed recommendations being submitted to the Commonwealth Attorney-General in December 2017 and March 2018. Commitment 7 of NAP2, discussed below, involves a wide-ranging review of the Commonwealth public service. Although this report does not assess commitment implementation, the public service review, without reference to the 2016 commitment, included a recommendation that the Government commission a review of privacy, FOI and record-keeping arrangements to ensure that they are fit for the digital age.⁹

The government's use of algorithms or forms of automated decision-making is also giving rise to concerns over access to information. For example, in July 2016, the Department of Human Services launched a new online compliance intervention system for identifying and recovering overpayments of certain government welfare benefits. The system involves comparing reported income levels against data-matched, averaged income information provided to the Australian Taxation Office. The design and implementation of the system has been the subject of reports by the Commonwealth Ombudsman¹⁰ and Senate Community Affairs References Committee.¹¹

There have also been public concerns about the collection, use, and protection of personal information by government agencies and the impact that this has on public trust. Under Commitment 6 of NAP I, the government released a Privacy Code for government compliance with privacy legislation.¹² However, legislation including the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018*¹³ was enacted after debate was restricted,¹⁴ and despite widespread concern over the legislation's scope, unforeseeable security weaknesses in communication technology,¹⁵ and a lack of transparency and oversight.¹⁶

There was also concern over the range of agencies who can access personal metadata under the *Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015* (Cth).¹⁷ The government published personal information on a welfare recipient to "correct the record" after the individual publicly criticised the government's automated debt-raising and recovery system."¹⁸ Public concerns have also been raised about the privacy implications of the government's My Health Record Scheme, including the potential for security flaws and the choice of an opt-out rather than opt-in system.¹⁹

Civic Participation

There is a strong culture of Commonwealth departments engaging in public consultation. In 2018, the Commonwealth Treasury held 106 consultations.²⁰ Submissions are invited for a broad range of topics, from tax treaties²¹ to superannuation regulations²² and consumer surveys on grocery unit pricing.²³ Consultations by departments included the establishment of government bodies,²⁴ development of legislation²⁵ and shaping future policy,²⁶ primarily through release of an issues paper and inviting submissions, with publication of non-confidential submissions on the department website.

Public participation is also strongly encouraged through the work of royal commissions and other independent inquiries. The Royal Commission into Institutional Responses to Child Sexual Abuse was conducted from February 2013 to its final report in December 2017.²⁷ Over those five years, the Royal Commission released five consultation papers²⁸ and 11 issues papers,²⁹ held 57 public hearings³⁰ including seven public or private roundtables,³¹ and received over 1,000 public submissions, the majority of which were published on the Commission website. Over 8,000 people privately told their stories of child sexual abuse to the Commission.³² Over the course of the first national action plan, there was a Royal Commission into the Protection and Detention of Children in the Northern Territory³³ (established in 2016, with its report tabled on 17 November 2017), and the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry³⁴ was commenced (established in December 2017, with its report tabled on 4 February 2019).

Public participation at the Commonwealth level is also encouraged through public inquiries conducted by Parliamentary Committees.³⁵ In June 2018, as the second action plan was being developed, there were 67 committees (between the House, the Senate, and Joint committees), 119 current public enquires, nine open public submissions, and 45 upcoming public hearings.³⁶ The public was invited to participate in these inquiries in a number of ways: public submissions,³⁷ online surveys,³⁸ questionnaires,³⁹ public hearings,⁴⁰ roundtables,⁴¹ and community statement sessions,⁴² with seminars, informal discussions, and workshops also accepted practice.⁴³

However, the influence of this public engagement has been mixed, with criticism of some inquiries as merely repeating past inquiries without any progress.⁴⁴ There were also two significant examples of broad public consultation which were criticised for, respectively, their lack of impact or being motivated by political as well as policy concerns:

The first of these was the rejection of the *Uluru Statement from the Heart*, which called for parliamentary indigenous representation to be enshrined in the constitution, the negotiation of a treaty or agreement with indigenous peoples, and a truth-telling of the indigenous experience.⁴⁵ The *Uluru Statement* was the result of a consultation process that was "unprecedented in Australian history for its scale."⁴⁶ Over a six-month period from late 2016 to 2017, more than 1,200 Aboriginal

and Torres Strait Islander representatives engaged in a dozen regional deliberations across the country.⁴⁷ In addition, 250 representatives of those dialogues then met in the First Nations National Constitutional Convention held at Uluru from 23 to 26 May 2017 to produce the statement.

The main element of the statement, a constitutionally enshrined indigenous voice in Parliament, was quickly rejected by the Commonwealth government, with the Prime Minister characterising the proposal as a “third chamber of Parliament” and not being “desirable or capable of winning acceptance in a referendum.”⁴⁸ This characterisation was claimed to be misleading by indigenous advocates and proposal supporters.⁴⁹ Following the election of the Coalition government in 2019, the recently appointed Minister for Indigenous Australians has reaffirmed his commitment to some form of an indigenous voice in Parliament, while ruling out constitutional recognition.⁵⁰

The second extensive public consultation process involved the ‘same-sex marriage survey’. Initially proposed as an alternative to allowing liberal Parliamentarians a conscience vote on same-sex marriage,⁵¹ a non-compulsory plebiscite was twice rejected by the Senate before being conducted without legislative support by the Australian Bureau of Statistics.⁵² A significant majority (61.6%) of the nearly 80% of potential voters⁵³ supported same-sex marriage,⁵⁴ resulting in the legalization of same-sex marriage on 8 Dec. 2017 by a conscience vote of MPs, passing the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cth).⁵⁵ LGBTI advocates strongly criticised the process as unnecessarily exposing LGBTI Australians to potential mental and physical harm by opponents in the debate.⁵⁶

Public Accountability

Australia is generally perceived to perform well on measures of public accountability at the Commonwealth level. For instance, the World Justice Project in 2018 ranked Australia within the top ten countries for constraints on government powers and 12th out of 113 countries on the absence of corruption.⁵⁷ Although Australia was ranked 13th out of 180 countries and territories in Transparency International’s Corruptions Perception Index in 2018, a stagnant score of 77 reflects no improvement in public perceptions of corruption since 2017, and a gradual decline from a score of 85 in 2012.⁵⁸

As discussed below in Commitment I, there have been a number of calls to strengthen the anticorruption framework at the Commonwealth level. In addition, the adequacy of whistleblower protection has come under public scrutiny, particularly in the context of national security. In the lead-up to the second action plan, the government had introduced legislation to enhance whistleblower protection for corporate and taxation wrongdoing.⁵⁹ However, it also passed the *National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018* (Cth),⁶⁰ which introduced offences relating to disclosure of national security information. While introducing some protection for journalists, the offences do not provide exceptions for public interest disclosures. Similarly, several high-profile cases where whistleblowers were charged for revealing protected or classified information have highlighted the limited protections provided under the *Public Interest Disclosure Act 2013* (Cth).⁶¹

¹ Daniel Stewart, “Independent Reporting Mechanism (IRM): Australia End-of-Term Report 2016–2018” (OGP, 2020), 21, https://www.opengovpartnership.org/wp-content/uploads/2020/04/Australia_End-of-Term_Report_2016-2018.pdf.

² *Id.* at 45.

³ Global Open Data Index, “Place Overview” (Open Knowledge Foundation, accessed Jun. 2020), <https://index.okfn.org/place/>; Global Open Data Index “Methodology” (Open Knowledge Foundation, accessed Jun. 2020), <https://index.okfn.org/methodology/>.

⁴ Organisation for Economic Co-operation and Development, “Open Government Data” (accessed Jun. 2020), <https://www.oecd.org/gov/digital-government/open-government-data.htm>.

⁵ World Justice Project, *The WJP Rule of Law Index 2017–2018 Report* (2018), 20, 38, <https://worldjusticeproject.org/our-work/publications/rule-law-index-reports/wjp-rule-law-index-2017-2018-report>.

⁶ Dept. of Home Affairs, “Modern Slavery Reporting Requirement” (accessed Jun. 2020), <https://www.homeaffairs.gov.au/criminal-justice/Pages/modern-slavery.aspx>.

⁷ Global Right to Information Rating, “By Country” (accessed Jun. 2020), <https://www.rti-rating.org/country-data/>.

⁸ Global Right to Information Rating, “Australia” (Mar. 2019), <https://www.rti-rating.org/country-detail/?country=Australia>.

⁹ Independent Review of the Australian Public Service, *Our Public Service, Our Future* 2019 at p 122.

<https://pmc.gov.au/resource-centre/government/independent-review-australian-public-service>.

¹⁰ Commonwealth Ombudsman of Australia, "Centrelink's Automated Debt Raising and Recovery System" (Apr. 2017), https://www.ombudsman.gov.au/_data/assets/pdf_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf. See Commonwealth Ombudsman of Australia, *Centrelink's Automated Debt Raising and Recovery System Implementation Report* (Apr. 2019),

https://www.ombudsman.gov.au/_data/assets/pdf_file/0025/98314/April-2019-Centrelinks-Automated-Debt-Raising-and-Recovery-System.pdf for further reporting on the implementation of the Ombudsman's recommendations.

¹¹ Senate Standing Committee on Community Affairs, *Design, Scope, Cost-Benefit Analysis, Contracts Awarded and Implementation Associated with the Better Management of the Social Welfare System Initiative* (Commonwealth of Australia, 21 Jun. 2017),

https://www.aph.gov.au/parliamentary_business/committees/senate/community_affairs/socialwelfaresystem/Report. See

Senate Standing Committee on Community Affairs, "Centrelink's Compliance Program" (Mar. 2020),

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Centrelinkcompliance for further inquiry into the compliance program that was referred to the Committee on 31 Jul. 2019.

¹² Office of the Australian Information Commissioner, "Australian Government Agencies Privacy Code" (accessed Jun. 2020), <https://www.oaic.gov.au/privacy/privacy-for-government-agencies/australian-government-agencies-privacy-code/>.

¹³ Enacted on 8 Dec. 2018 after being introduced on 20 Sep. 2018. See

https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6195.

¹⁴ Ariel Bogle, "Encryption Laws Developed after Little Consultation with Australian Tech Companies, FOI Documents Reveal" (ABC News, 9 Jul. 2019), <https://www.abc.net.au/news/science/2019-07-10/dutton-encryption-laws-australian-tech-sector-not-consulted-foi/11283864>.

¹⁵ See Monique Mann, "The Devil is in the Detail of Government Bill to Enable Access to Communications Data" (The Conversation, 14 Aug. 2018), <https://theconversation.com/the-devil-is-in-the-detail-of-government-bill-to-enable-access-to-communications-data-96909>.

¹⁶ Julian Lincoln, Anna Jaffe and Lara Howden, "The Assistance and Access Act 2018: The Crypto Wars – Final Act for 2018" (Herbert Smith Freehills, 11 Dec. 2018), <https://www.herbertsmithfreehills.com/latest-thinking/the-assistance-and-access-act-2018-the-crypto-wars-final-act-for-2018>; Michael Swinson and James Patto, "Assistance and Access Act Becomes Law Despite Industry Reservations" (King & Wood Mallesons, 17 Dec. 2018), <https://www.kwm.com/en/au/knowledge/insights/assistance-and-access-act-becomes-law-despite-industry-reservations-20181217>.

¹⁷ Melissa Clarke, "Metadata Laws under Fire as 'Authority Creep' Has More Agencies Accessing Your Information" (ABC News, 19 Oct. 2018), <https://www.abc.net.au/news/2018-10-19/authority-creep-has-more-agencies-accessing-your-metadata/10398348>.

¹⁸ Margaret Gigliotti and Annabelle Ritchie, "OAIC Investigation Clears Centrelink of Wrongdoing over Public Release of Personal Information" (Minter Ellison, 6 Jul. 2018), <https://www.minterellison.com/articles/oaic-investigation-clears-centrelink-of-wrongdoing>; Flint Duxfield and Stephen Smiley, "Privacy Decision Sets Worrying Precedent for What the Government Can Reveal about Us" (ABC News, 30 May, 2018), <https://www.abc.net.au/news/2018-05-31/privacy-precedent-what-can-the-government-reveal-about-us/9816700>. An investigation by the OAIC found that the disclosure was permitted under the *Privacy Act 1988* (Cth), in part because guidelines provided under that act state that an individual may reasonably expect disclosure of their personal information where they have made negative comments about an Australian Privacy Principle (APP) entity in the media.

¹⁹ Jill Margo, "My Health Record: The Benefits and Risks Explained" (Australian Financial Review, 17 Jul. 2018), <https://www.afr.com/life-and-luxury/health-and-wellness/my-health-record-the-benefits-and-risks-explained-20180716-h12rk5>; Ariel Bogle, "The My Health Record Opt-Out Deadline Has Been Extended. Here's What You Need to Know" (ABC Science, 13 Nov. 2018), <https://www.abc.net.au/news/science/2018-11-14/my-health-record-opt-out-deadline-amendments-privacy-security/10481806>.

²⁰ The Treasury of Australia, "Consultations" (accessed Jun. 2020), <https://www.treasury.gov.au/consultation>.

²¹ The Treasury of Australia, "Tax Treaty between Australia and Israel" (Aug. 2019),

<https://www.treasury.gov.au/consultation/c2019-t401152>.

²² The Treasury of Australia, "Superannuation Regulations" (23 Mar. 2018),

<https://www.treasury.gov.au/consultation/c2018-t253828>.

²³ The Treasury of Australia, "Grocery Unit Pricing – Consumer Survey" (28 Feb. 2019),

<https://consult.treasury.gov.au/market-and-competition-policy-division/grocery-unit-pricing-consumer-survey/>; Attorney-General's Dept. had nine in 2018, see "Consultations, Reforms and Reviews" (2018),

<https://www.ag.gov.au/Consultations/Pages/default.aspx?cfp=status&cfpv=all>; Dept. of Home Affairs has had eight consultations since its inception on 20 Dec. 2017, see "How to Engage Us" (29 Nov. 2019),

<https://www.homeaffairs.gov.au/help-and-support/how-to-engage-us/consultations>; Dept. of Foreign Affairs and Trade has 11 Free Trade Agreements currently open for consultation, see "Have Your Say: Public Consultations on FTAs" (accessed Jun. 2020), <https://dfat.gov.au/trade/engage/public-submissions/Pages/have-your-say-public-consultations-on-ftas.aspx>; Dept. of Social Services has had ten consultations since 2018, see "https://engage.dss.gov.au/" (accessed Jun. 2020),

<https://engage.dss.gov.au>; Dept. of Industry, Innovation and Science had 19 in 2018 alone, see "Find Consultations" (accessed Jun. 2020),

https://consult.industry.gov.au/consultation_finder/?sort_on=iconsultable_enddate&sort_order=descending&advanced=1&x=&st=&au=&in=&de=.

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- ²⁴ Attorney-General's Dept., "Commonwealth Integrity Commission" (1 Feb. 2019), <https://www.ag.gov.au/Consultations/Pages/commonwealth-integrity-commission.aspx>.
- ²⁵ Dept. of Home Affairs, "Modern Slavery Reporting Requirement."
- ²⁶ Dept. of Social Services, "Shaping the future of disability policy for 2020 and beyond – Stage I consultations" (Apr. 2019), <https://engage.dss.gov.au/a-new-national-disability-strategy-for-beyond-2020/>.
- ²⁷ See <https://www.childabuseroyalcommission.gov.au/>.
- ²⁸ Royal Commission into Institutional Response of Child Sexual Abuse, "Consultation Papers" (accessed Jun. 2020), <https://www.childabuseroyalcommission.gov.au/consultation-papers>.
- ²⁹ Royal Commission into Institutional Response of Child Sexual Abuse, "Issues Papers" (accessed Jun. 2020), <https://www.childabuseroyalcommission.gov.au/issues-papers>.
- ³⁰ Royal Commission into Institutional Response of Child Sexual Abuse, "Final Report Released" (accessed Jun. 2020), <https://www.childabuseroyalcommission.gov.au/media-releases/final-report-released>.
- ³¹ Royal Commission into Institutional Response of Child Sexual Abuse, "Roundtables" (Jun. 2020), <https://www.childabuseroyalcommission.gov.au/roundtables>.
- ³² Royal Commission into Institutional Response of Child Sexual Abuse, "Private Sessions" (Jun. 2020), <https://www.childabuseroyalcommission.gov.au/private-sessions>.
- ³³ See <https://www.royalcommission.gov.au/royal-commission-detention-and-protection-children-northern-territory>.
- ³⁴ See <https://www.royalcommission.gov.au/royal-commission-misconduct-banking-superannuation-and-financial-services-industry>.
- ³⁵ Parliament of Australia, "Making a Submission to a Committee Inquiry" (accessed Jun. 2020), https://www.aph.gov.au/Parliamentary_Business/Committees/House/Making_a_submission.
- ³⁶ Parliament of Australia, "Committees" (15 Jun. 2018), https://webarchive.nla.gov.au/awa/20180615054614/https://www.aph.gov.au/Parliamentary_Business/Committees.
- ³⁷ For inquiries accepting submissions, see Parliament of Australia, "Inquiries Accepting Submissions" (accessed Jun. 2020), https://www.aph.gov.au/Parliamentary_Business/Committees/Submissions_Open.
- ³⁸ For example, see a survey on Australian citizenship legislation at: Parliament of Australia, "Online Survey" (2018), https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Citizenshipbill2018/Online_survey.
- ³⁹ For example, see a questionnaire on family violence at: Parliament of Australia, "Questionnaire" (accessed Jun. 2020), https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/FVlawreform/Questionnaire.
- ⁴⁰ See Parliament of Australia, "Upcoming Public Hearings" (accessed Jun. 2020), https://www.aph.gov.au/Parliamentary_Business/Committees/Upcoming_Public_Hearings.
- ⁴¹ For a honeybee roundtable, see Parliament of Australia, "Roundtable" (accessed Jun. 2020), https://www.aph.gov.au/Parliamentary_Business/Committees/House/Standing_Committee_on_Agriculture_and_Water_Resources/Roundtablehoneybees/Roundtable.
- ⁴² Parliament of Australia, "Report: From Conflict to Cooperation: Inquiry into the Child Support Program" (20 Jul. 2015), <https://www.aph.gov.au/childsupport>.
- ⁴³ Parliament of Australia, "Committee Inquiries" (accessed Jun. 2020), https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/Practice7/HTML/Chapter19/Committee_inquiries.
- ⁴⁴ For example, see *below* for a discussion of fatiguing political funding and donation inquiries in relation to Commitment 2; see also Joint Standing Committee on Electoral Matters, *Report on the Conduct of the 2016 Federal Election and Matters Related Thereto* (Nov. 2018), 124, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election/2016_election_report.
- ⁴⁵ Referendum Council, "Final Report of the Referendum Council" (2 Jan. 2019), <https://www.referendumcouncil.org.au/final-report.html>.
- ⁴⁶ Natassia Chrysanthos, "What Is the Uluru Statement from the Heart?" (*The Sydney Morning Herald*, 27 May 2019), <https://www.smh.com.au/national/what-is-the-uluru-statement-from-the-heart-20190523-p51qlj.html>.
- ⁴⁷ The dialogues were held in:
- Hobart (9–11 Dec. 2016),
 - Broome (10–12 Feb. 2017),
 - Dubbo (17–19 Feb. 2017),
 - Darwin (22–24 Feb. 2017),
 - Perth (3–5 Mar. 2017),
 - Sydney (10–12 Mar. 2017),
 - Melbourne (17–19 Mar. 2017),
 - Cairns (24–27 Mar. 2017),
 - Ross River (31 Mar.–2 Apr. 2017),
 - Adelaide (7–9 Apr. 2017),
 - Brisbane (21–23 Apr. 2017),
 - Thursday Island (5–7 May 2017), and
 - Canberra (Information Session, 10 May 2017).
- See Megan Davis, "The Long Road to Uluru: Walking Together – Truth Before Justice" in Griffith Review 60 (Griffith Univ., Apr. 2018), <https://griffithreview.com/articles/long-road-uluru-walking-together-truth-before-justice-megan-davis/>.

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- ⁴⁸ Malcolm Turnbull, “Response to Referendum Council’s Report on Constitutional Recognition” (26 Oct. 2017), <https://www.malcolmturnbull.com.au/media/response-to-referendum-councils-report-on-constitutional-recognition>.
- ⁴⁹ Davis, “The Long Road to Uluru;” Peter Dutton, “Peter Dutton Rules Out Voice to Parliament, Labelling It a ‘Third Chamber’” (*The Guardian*, 12 Jul. 2019), <https://www.theguardian.com/australia-news/2019/jul/12/peter-dutton-rules-out-voice-to-parliament-labelling-it-a-third-chamber>.
- ⁵⁰ Lorena Allam, “Ken Wyatt under Fire for Ruling Out Indigenous Voice Referendum Question” (*The Guardian*, 19 Aug. 2019), <https://www.theguardian.com/australia-news/2019/aug/19/ken-wyatt-under-fire-for-ruling-out-indigenous-voice-referendum-question>.
- ⁵¹ Paul Karp, “Australian Marriage Equality Vote Explainer – The Answer’s in the Post” (*The Guardian*, 7 Sept. 2017), <https://www.theguardian.com/australia-news/2017/aug/23/the-answers-in-the-post-australian-marriage-equality-vote-explainer>.
- ⁵² Deirdre McKeown, “Chronology of Same-Sex Marriage Bills Introduced into the Federal Parliament: A Quick Guide” (Parliament of Australia, 15 Feb. 2018), https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1718/Quick_Guides/SSMarriageBills.
- ⁵³ Adrian Beaumont, “Same-Sex Marriage Survey by the States: A Resounding ‘Yes’ but Western Sydney Leads ‘No’ Vote” (*The Conversation*, 14 Nov. 2017), <https://theconversation.com/same-sex-marriage-survey-by-the-stats-a-resounding-yes-but-western-sydney-leads-no-vote-87258>.
- ⁵⁴ *Id.*
- ⁵⁵ McKeown, “Chronology of Same-Sex Marriage Bills.”
- ⁵⁶ Joshua Badge, “A Year after the Same-Sex Marriage Postal Vote, We’re Still Wounded from a Brutal Campaign” (ABC News, 14 Nov. 2018), <https://www.abc.net.au/news/2018-11-15/marriage-equality-yes-vote-same-sex-wedding-lgbtqi/10488348>.
- ⁵⁷ World Justice Project, *The WJP Rule of Law Index 2017–2018 Report*, 51.
- ⁵⁸ Transparency International, *Corruptions Perceptions Index 2018* (29 Jan. 2019), <https://transparency.org.au/report-2018-corruption-perceptions-index/>.
- ⁵⁹ Subsequently enacted on 19 Feb. 2019, the *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* (Cth) extended protections for corporate whistleblowers, including requiring proactive measures to support potential whistleblowers, and liability for companies who don’t prevent retribution, such as a lack of support plans or a failure in implementation.
- ⁶⁰ See <https://www.legislation.gov.au/Details/C2018A00067>.
- ⁶¹ “Witness K” was prosecuted after disclosing information relating to the covert surveillance of the East Timorese Embassy by Australian security agencies during negotiations over oil and gas reserves in the Timor Sea. See Christopher Knaus, “Witness K and the ‘Outrageous’ Spy Scandal that Failed to Shame Australia” (*The Guardian*, 9 Aug. 2019), <https://www.theguardian.com/australia-news/2019/aug/10/witness-k-and-the-outrageous-spy-scandal-that-failed-to-shame-australia>. Charges were also brought against David McBride, a former Defence Force lawyer, who disclosed alleged misconduct by Australian security forces in Afghanistan. See SBS News, “Afghan Files Military Whistleblower David McBride Back Before ACT Court” (22 Aug. 2019), <https://www.sbs.com.au/news/afghan-files-military-whistleblower-david-mcbride-back-before-act-court>. Richard Boyle, a tax office official, was charged for collecting and disclosing information on allegedly unethical tax collection by the Australian Taxation Office. See Rebecca Opie, “ATO Whistleblower Richard Boyle to Plead Not Guilty at Next Hearing, Adelaide Court Told” (ABC News, 4 Jun. 2019), <https://www.abc.net.au/news/2019-06-04/ato-whistleblower-richard-boyle-appears-in-adelaide-court/11177268>.

III. Leadership and Multistakeholder Process

Australia's multistakeholder forum engaged in public consultations through the development of the second OGP action plan. The multistakeholder forum met regularly and consistently guided the process, although a lack of high-level government representation remained. Leveraging government support to expand engagement with stakeholders from a broader range of interests could raise the level of ambition across Australia's OGP commitments.

3.1 Leadership

This subsection describes the OGP leadership and institutional context for OGP in Australia.

Australia has a federal system of government with a constitutional division of legislative powers divided between the national ("federal") and state governments. Legislative authority at the federal level resides in Parliament, with the legislative agenda largely set by the party whose representatives command a majority in the lower house. Government Ministers are also members of Parliament who bear responsibility to Parliament for the activities of the agencies within their portfolios.

As with the first national action plan, the second national action plan was developed under the responsibility of the Minister for Finance, on behalf of the Prime Minister. The Minister for Finance is a senior Minister in the government. The IRM was unable to identify any public comments made by the Minister for Finance regarding the development of the second national action plan other than a statement in the plan itself. There was also no other ministerial representation in events connected with development of the second NAP or participation by agency officers, who were not members of the multistakeholder forum.

Overall development, coordination, monitoring, and reporting on implementation activities is provided by a dedicated government secretariat within the Department of the Prime Minister and Cabinet (PM&C). Individual agencies have accepted responsibility for one or more commitments under the national action plan. There is no legal requirement for agencies to comply with OGP commitments. The multistakeholder forum established under the first NAP had the primary role in consultations and drafting of the second national action plan, as discussed below. An interdepartmental committee with representations of up to 26 government agencies, also met once during the implementation of the first national action plan.¹

The OGP secretariat within the PM&C secretariat has the equivalent of approximately three full-time staff.² There were personnel changes within the OGP secretariat during implementation of the first national action plan, including the government co-chair of the multistakeholder forum. While there may be an individual budgetary allocation for some initiatives reflected in the plan commitments, there is no overall budgetary allocation specific to OGP activities. Government agencies involved with OGP commitments are generally expected to provide any resources required within normal operational budgets.

3.2 Multistakeholder process throughout action plan development

In 2017, OGP adopted the OGP Participation and Co-Creation Standards intended to support participation and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and quality of participation during development, implementation, and review of OGP action plans.

OGP's Articles of Governance also establish participation and co-creation requirements a country or entity must meet in their action plan development and implementation to act according to OGP process. Australia **did not act** contrary to OGP process.³

Please see Annex I for an overview of Australia's performance implementing the Co-Creation and Participation Standards throughout the action plan development.

The IRM has adapted the International Association for Public Participation (IAP2) “Spectrum of Participation” to apply to OGP.⁴ This spectrum shows the potential level of public influence on the contents of the action plan. In the spirit of OGP, most countries should aspire for “collaborate.”

Table 4: Level of Public Influence

| Level of public influence | | During development of action plan |
|---------------------------|---|-----------------------------------|
| Empower | The government handed decision-making power to members of the public. | |
| Collaborate | There was iterative dialogue AND the public helped set the agenda. | ✓ |
| Involve | The government gave feedback on how public inputs were considered. | |
| Consult | The public could give inputs. | |
| Inform | The government provided the public with information on the action plan. | |
| No Consultation | No consultation | |

Multistakeholder forum

Established under NAPI,⁵ Australia’s Open Government Forum, comprising equal representation of government and non-government members, has played a generally advisory role in overseeing the implementation of Australia’s Open Government Commitments and also oversees community engagement in developing the next NAP.⁶ Non-government representatives were openly invited to express interest in membership of the Forum. All nominations were assessed by a selection panel comprising the government and civil society co-chairs of the Forum, as well as an additional eminent person.⁷ The panel then made recommendations to the government on the appointment of Forum members; with the members being appointed by the responsible minister.

The Forum first met on 28 July 2017, with subsequent meetings occurring approximately once every two months until the 12 April 2018 meeting. The Forum then met once a month until 12 July 2018, not meeting again until after commencement of NAP2 implementation on 14 February 2019.⁸ The Forum generally met in-person,⁹ sometimes via teleconference,¹⁰ and sometimes a combination of both.¹¹

Participation and engagement throughout action plan development

Before Consultations

The Forum began discussions regarding the development of the 2nd NAP at its first meeting on 28 July 2017.¹² The OGP secretariat was tasked with producing a draft work plan for the development of the 2nd NAP,¹³ which was finalised and agreed upon on at the next Forum meeting on 19 October 2017.¹⁴ The work plan was published as part of the supporting documents for 19 October and 7 December 2017 Forum meetings,¹⁵ and set out a nine-month, five-phase process in timeline form, matching the activity required in each stage with the relevant dates and deadlines.¹⁶ The decision-making process in finalising the NAP was reserved for the government, with the Forum developing recommendations on prospective themes and commitments through discussion and agreement.¹⁷

There were two main periods for public consultation and feedback—the “Develop Ideas” phase (19 February–30 March 2018) and the “Draft Commitments” phase (25 June–8 July 2018)—which were to occur via an online platform (ogpau.pmc.gov.au) and public workshops.¹⁸ These opportunities for interested stakeholders to participate were outlined in: 1) a news update on 5 February 2018, which included a graphic of the timeline, a summary of the planned consultations (along with registration links), and information about the OGP and NAP;¹⁹ 2) a webpage on the consultation process with links to online comment forums as well as details for face-to-face consultations;²⁰ and 3) several news updates (8, 12, and 25 June 2018) advertising opportunities for online and in-person

consultations on the draft NAP.²¹ PM&C also provided further opportunities for government departments to contribute through an open letter (dated January 2018) encouraging the development and identification of continuing and prospective themes and commitments for the 2nd NAP.²²

In addition to the promotion above, the government emailed 63 key civil society stakeholders on 16 February 2018, and emailed the OGP Australia email list (622 recipients) on 5 and 19 February 2018, outlining the consultation process and inviting their contributions.²³ On Twitter, PM&C advertised the consultations over 30 tweets from 8 February to 27 March 2018,²⁴ which, as reported by PM&C, were seen 75,235 times with an engagement rate of 6.81%.²⁵ The government therefore began to inform stakeholders about their opportunity to provide input at least two weeks prior to the beginning of each consultation period.

During Consultations

During the “Develop Ideas” consultation, 44 registered users made 49 comments on the website, with 18 longer submissions emailed to PM&C. Sixty-four people attended the five face-to-face consultations in Canberra, Perth, Melbourne, Sydney, and Brisbane, including six government representatives at the Canberra consultation. Fifty-eight potential commitments were generated from this process.²⁶ These consultations targeted nongovernment stakeholders, and based on published submissions, there was a diverse cross-section of civil society organisations,²⁷ private sector companies,²⁸ academics,²⁹ and private individuals.³⁰ During the “Draft Plan” consultations, nearly 60 comments and submissions were made by nearly 90 users and attendees.³¹

The principal public institution involved was the Department of the Prime Minister and Cabinet, who guided consultations by drafting discussion starters,³² promoted, organised, and facilitated consultations (including the online platform), synthesised ideas for consideration by the Forum, and drafted and finalised the NAP.³³ As the consultations focused on nongovernment stakeholders, government contributions occurred mainly through their roles as Forum members.³⁴ These contributions were proposed and evaluated in preparation for,³⁵ and during Forum meetings.³⁶ While the government communicated its thematic priorities to the Forum prior to the 22 February 2018 meeting,³⁷ it is important to note that civil society also played a significant role in drafting the shortlist of commitments as informed by public submissions with the most support after the consultation period.³⁸

After Consultations

To develop the 2nd NAP, the Forum met eight times between 28 July 2017 and 12 July 2018, initially around once every two months, before increasing to once a month from April to July 2018.³⁹ Prior to each meeting, the agenda and papers were posted as a news item, which generally included the latest draft of commitments reflecting public consultations and action items assigned in the previous meeting.⁴⁰ After each meeting, the minutes were posted, which together with other event updates (i.e., notice of consultations), constitutes progress updates being published at least every month.⁴¹

The commitment priorities were set through a process of consultation, evaluation, and synthesis. Guided by discussion starters drafted by PM&C,⁴² public consultations resulted in 58 ideas for commitments, collated in a spreadsheet according to their level of support.⁴³ The Forum then discussed those ideas with the most support, amalgamating suggestions where possible. (Civil society suggestions that were not raised at least three times over the five consultations, emailed as submissions, or submitted as discussion starters were not considered).⁴⁴ After assessing these potential commitments against the criteria outlined in the Forum’s terms of reference,⁴⁵ a preliminary shortlist of 14 actionable commitments was produced.⁴⁶ PM&C responded to this shortlist of public and civil society contributions by creating a document evaluating each commitment for discussion at the 18 May 2018 Forum workshop.⁴⁷ This was published online on 15 April 2019.⁴⁸ Twelve proposed commitments were discussed at the workshop, which reduced the shortlist to “eight mature proposals” for the 14 June 2018 meeting, and a revised draft was subsequently considered at the 12 July 2018 meeting.⁴⁹ These represent the final commitments for this NAP.

PM&C (with input from the Forum)⁵⁰ organised a second consultation period during the “Draft Commitments” phase to collate feedback on the draft NAP, which was published on 25 June 2018.⁵¹ During this two-week period (from 25 June to 8 July 2018), stakeholders could comment on the draft commitments on the webpage, email longer submissions, or attend one of the two face-to-face consultations in Canberra or Melbourne.⁵² Nearly 60 submissions were received, which PM&C broadly considered as relating to the scope of ambition of the draft commitments, the level of detail included, and difficulties with the OGP Australia website.⁵³ These comments did not, however, result in substantial changes to the draft NAP,⁵⁴ with the Forum deciding to address these issues at a future meeting evaluating the NAP2 development process.⁵⁵ The revised draft was considered at the 12 July 2018 meeting, with the Forum making its final recommendations to government⁵⁶ before the finalisation and publication of the 2nd NAP by the government on 21 October 2018.⁵⁷

Co-creation and participation recommendations throughout development

Australia showed evidence of achievement and strong performance in its multistakeholder forum (MSF) mandate and communication. For example, the Forum’s structure and procedures are clearly outlined in the Terms of Reference; Forum members have the opportunity to jointly develop and amend its mandate; and the Forum publishes documentation in advance of meetings and development stages. While the government retained decision-making authority over the final NAP, and offered priorities in its early development, the Forum had oversight of the consultation process, establishing themes, and proposing and shortlisting commitments. The shortlisting and form of commitments was also influenced by broader public consultation. The development of NAP2 can therefore be described as collaborative.

Some areas where Australia can improve are:

- The selection and composition of the Forum, including direct involvement of high-level representatives with decision-making authority from the government, and involvement of legislative or judicial representatives.
- Communication and outreach during action plan development.

In order to improve performance in these areas the IRM, drawing on OGP’s Participation and Co-Creation Standards,⁵⁸ suggests the following:

- The government membership of the Forum currently ranges from two first assistant secretaries to three deputy secretaries of Commonwealth departments, as well as a state representative in the New South Wales Information Privacy Commissioner. However, the department-wide decision-making power of these members is limited. Meetings are also sometimes attended by representatives or proxies. Higher-profile involvement, or greater decision-making authority of the Forum itself, would increase the public presence of the Forum and expand its influence on government decision-making, with members having the authority to bind their departments, as opposed to merely communicating their views.
- Consider establishing a process for the selection of civil society members of the Forum to be independent to that of the government. In addition, given that civil society membership of the Forum is currently heavily concentrated in Melbourne and Sydney, with one member from Perth, the selection of non-government members of the Forum should also aim to ensure that a broader range of regional interests are sufficiently represented.
- The level and scope of participation in public consultations could be improved through a well-resourced and more strategic approach to communication across different media sources. This could include the creation of various OGP Australia-specific social media accounts. Currently, the government relies mainly on websites and general social media to promote participation in NAP development. The list of 63 civil society stakeholders who were invited to provide input to NAP2, for example, is not publicly available.⁵⁹ PM&C performs the bulk of outreach regarding consultations through tweets and news updates on the OGP Australia and PM&C websites. Notably, there were also two tweets from the Digital Transformation Agency encouraging stakeholder participation in consultations.⁶⁰ There was very little in the major newspapers regarding Australia’s involvement in the OGP, let alone public consultations or calling for Forum nominations.⁶¹ The two main press sources reporting relatively regularly on OGP Australia were *The Mandarin* (an online public-

sector news magazine) and *ForeignAffairs.co.nz*. The IRM suggests that PM&C and other departments represented in the Forum, particularly through the responsible Ministers, make a more active effort in raising OGP Australia's profile in the mainstream media so as to attract participation from potentially interested stakeholders in the development process.

¹ The inter-departmental committee met on 5 July 2017, see

<https://webarchive.nla.gov.au/awa/20181010003430/https://ogpau.pmc.gov.au/news/archives>.

² Dept. of the Prime Minister and Cabinet, interview by IRM researcher, Canberra Australian Capital Territory (ACT), 8 Sep. 2017.

³ Acting Contrary to Process – Country did not meet (1) “involve” during the development or “inform” during implementation of the NAP (2) government fails to collect, publish and document a repository on the national OGP website/webpage in line with IRM guidance.

⁴ IAP2 International Federation, “IAP2 Spectrum of Public Participation” (Nov. 2018),

https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum_8.5x11_Print.pdf.

⁵ Commonwealth of Australia, *Australia's first Open Government National Action Plan 2016-18* (2016), 55,

https://www.opengovpartnership.org/wp-content/uploads/2017/04/Australia_NAP_2016-2018_0.pdf.

⁶ Commonwealth of Australia, “Attachment A – Amended Terms of Reference” (14 Feb. 2019), 2,

https://ogpau.pmc.gov.au/sites/default/files/meetings/attachment_a_-_terms_of_reference_14_february_2019_-_clean.pdf.

While originally containing 16 members (with civil society and government equally represented), the Terms of Reference were amended in December 2018 to allow an additional civil society and government member, bringing the composition of the Forum to 18 (see <https://webarchive.nla.gov.au/wayback/20190208072456/https://ogpau.pmc.gov.au/open-government-forum-updated-terms-reference-18-december-2018> at 2). Criteria for Forum membership was set out in the terms of reference establishing the Forum and included in the public nomination and selection process. The Forum is co-chaired by a government and a civil society member. There are currently 17 members, with the civil society co-chair position to be filled. See Open Government Forum Australia, “Open Government Forum” (accessed Jun. 2020), <https://ogpau.pmc.gov.au/open-government-forum>. For more information on the selection and operation of the Forum, see the IRM Mid-Term Progress Report on Australia's NAP1.

⁷ Co-Chairs: Mr Barry Sterland, Deputy Secretary, the Australian Government Department of the Prime Minister and Cabinet, and Ms Fiona McLeod SC, Chair of the Accountability Round Table and Former President of the Law Council of Australia. Eminent person: The Hon Murray Kellam AO. For more information on the nomination process for NAP2 see <https://webarchive.nla.gov.au/awa/20190208065517/https://ogpau.pmc.gov.au/civil-society-nominations-process-australias-second-open-government-forum>.

⁸ See <https://ogpau.pmc.gov.au/open-government-forum/meetings>.

⁹ Open Government Forum Australia, “Open Government Forum Meeting - 22 February 2018” (Feb. 2018),

<https://ogpau.pmc.gov.au/open-government-forum/meetings/open-government-forum-meeting-22-february-2018>.

¹⁰ Open Government Forum Australia, “Open Government Forum Meeting - 7 December 2017” (Dec. 2017),

<https://ogpau.pmc.gov.au/open-government-forum/meetings/open-government-forum-meeting-7-december-2017>.

¹¹ Open Government Forum Australia, “Open Government Forum Meeting - 12 April 2018” (Apr. 2018),

<https://ogpau.pmc.gov.au/open-government-forum/meetings/open-government-forum-meeting-12-april-2018>; Open Government Forum Australia, “Open Government Forum Meeting - 14 June 2018” (Jun. 2018),

<https://ogpau.pmc.gov.au/open-government-forum/meetings/open-government-forum-meeting-14-june-2018>.

¹² Open Government Forum Australia, “Open Government Forum Meeting - 28 July 2018” (Jul. 2018), 4,

<https://ogpau.pmc.gov.au/open-government-forum/meetings/open-government-forum-meeting-28-july-2017>.

¹³ *Id.* at 5.

¹⁴ Open Government Forum Australia, “Open Government Forum Meeting - 19 October 2017” (Oct. 2017), 2,

<https://ogpau.pmc.gov.au/open-government-forum/meetings/open-government-forum-meeting-19-october-2017>.

¹⁵ For a copy of the draft work plan, see *id.*

¹⁶ For a copy of the updated draft work plan, see Open Government Forum Australia, “Open Government Forum Meeting - 7 December 2017.” The five stages of action plan development are:

1. Retrospective phase (Nov.–Dec. 2017): Seek suggestions from other departments and stakeholders regarding continuing and new themes and commitments.
2. Raising Awareness and Seeking Ideas phase (Jan. 2018): PM&C raises awareness about OGP and the NAP, drafts prospective themes and commitments, and advertises for public participation.
3. Develop Ideas phase (Feb.–Mar. 2018): Forum discusses and PM&C establishes an online platform for developing ideas and organising public workshops in major cities.
4. Draft Commitments phase (Apr.–Jul. 2018): Forum finalises recommendations to government on commitments and draft NAP; PM&C produces a shortlist of prospective themes and commitments and runs workshop to develop draft commitments.
5. Finalise Plan phase (Jul.–Aug. 2018): Government finalises and submits NAP.

¹⁷ *Id.* at 4–5.

¹⁸ *Id.* at 2–3.

¹⁹ Open Government Forum Australia, “Here's How We'll Develop Our Second National Action Plan 2018-20” (5 Feb. 2018), <https://ogpau.pmc.gov.au/news/here's-how-we'll-develop-our-second-national-action-plan-2018-20>.

²⁰ Open Government Forum Australia, “Consultations for Australia’s Second Open Government National Action Plan 2018-20” (accessed Oct. 2018), <https://webarchive.nla.gov.au/awa/20181010003443/https://ogpau.pmc.gov.au/consultations-australias-second-open-government-national-action-plan-2018-20>.

²¹ Open Government Forum Australia, “Consultations for Australia’s Second Open Government National Action Plan 2018-20 Opening Soon!” (8 Jun. 2018), <https://ogpau.pmc.gov.au/content/consultations-australias-second-open-government-national-action-plan-2018-20-opening-soon>; Open Government Forum Australia, “Final Consultations Starting Soon for Our Next National Action Plan” (12 Jun. 2018), <https://ogpau.pmc.gov.au/news/final-consultations-starting-soon-our-next-national-action-plan>; Open Government Forum Australia, “Final Consultations for Our Next National Action Plan Now Open!” (25 Jun. 2018), <https://ogpau.pmc.gov.au/news/final-consultations-our-next-national-action-plan-now-open>.

²² Open Government Forum Australia, “Open Government Forum Meeting - 7 December 2017,” I.

²³ See “5: Discussion of Prospective Priority Themes and Commitments for NAP2” in Open Government Forum Australia, “Open Government Forum Meeting – 12 April 2018,” I.

²⁴ See

- https://twitter.com/pmc_gov_au/status/978511964757520384 (27 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/978018750564851712 (25 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/978145791289315328 (26 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/977031035669155841 (22 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/976579365646536704 (21 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/976333023888027650 (21 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/975967743718674433 (20 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/975843102337503232 (19 Mar. 2018)];
- https://twitter.com/pmc_gov_au/status/975578880475004929 (18 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/974521080185434112 (16 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/974110453520576512 (14 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/97379643399654912 (14 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/973312700804714497 (12 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/971980168100106241 (9 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/971502014894092288 (7 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/971237997172715521 (6 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/971135870614081536 (6 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/970788562143674368 (5 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/970426187242762240 (4 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/969378019080130560 (1 Mar. 2018);
- https://twitter.com/pmc_gov_au/status/968942685896822784 (28 Feb. 2018);
- https://twitter.com/pmc_gov_au/status/968644434597380096 (27 Feb. 2018);
- https://twitter.com/pmc_gov_au/status/967897031187533824 (25 Feb. 2018);
- https://twitter.com/pmc_gov_au/status/966908281431121920 (23 Feb. 2018);
- https://twitter.com/pmc_gov_au/status/966522491983290368 (21 Feb. 2018);
- https://twitter.com/pmc_gov_au/status/965395732550299650 (18 Feb. 2018);
- https://twitter.com/pmc_gov_au/status/964281938482692096 (15 Feb. 2018);
- https://twitter.com/pmc_gov_au/status/963534515573592064 (13 Feb. 2018);
- https://twitter.com/pmc_gov_au/status/962931979812507654 (12 Feb. 2018); and
- https://twitter.com/pmc_gov_au/status/961419852169834496 (7 Feb. 2018).

²⁵ Open Government Forum Australia, “Open Government Forum Meeting – 12 April 2018,” I.

²⁶ *Id.* at 1–2.

²⁷ Submissions sorted by theme, see Open Government Forum Australia, “Consultations for Australia’s Second Open Government National Action Plan 2018-20.” Submissions from:

1. Australian Library and Information Association:
https://webarchive.nla.gov.au/wayback/20190208074326/https://ogpau.pmc.gov.au/sites/default/files/consultation/alia_response_to_2nd_australian_government_open_government_national_action_plan_redacted.pdf;
2. Law Council of Australia:
https://webarchive.nla.gov.au/wayback/20190208074543/https://ogpau.pmc.gov.au/sites/default/files/consultation/law_council_of_australia.pdf;
3. Publish What You Pay Australia:
https://webarchive.nla.gov.au/wayback/20190208074805/https://ogpau.pmc.gov.au/sites/default/files/consultation/publish_what_you_pay_redacted.pdf;
4. Accountability Round Table:
https://webarchive.nla.gov.au/wayback/20190208074805/https://ogpau.pmc.gov.au/sites/default/files/consultation/accountability_round_table_2.docx;
5. Transparency International Australia:
https://webarchive.nla.gov.au/wayback/20190208074805/https://ogpau.pmc.gov.au/sites/default/files/consultation/tia_ogp_nap_2_submission_002_redacted.pdf; and

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6. Australian Citizens Against Corruption:
https://webarchive.nla.gov.au/wayback/20190208075119/https://ogpau.pmc.gov.au/sites/default/files/consultation/australian_citizens_against_corruption.pdf.
- ²⁸ Submissions from:
1. Nook Studios:
https://webarchive.nla.gov.au/wayback/20190208074326/https://ogpau.pmc.gov.au/sites/default/files/consultation/nook_studios_redacted.pdf and
https://webarchive.nla.gov.au/wayback/20190208074326/https://ogpau.pmc.gov.au/sites/default/files/consultation/nook_studios_2_redacted.pdf;
 2. Salsa Digital:
https://webarchive.nla.gov.au/wayback/20190208074326/https://ogpau.pmc.gov.au/sites/default/files/consultation/salsa_digital_redacted.pdf.
- ²⁹ Submissions from:
1. Chris Culnane, Benjamin Rubinstein, and Vanessa Teague:
https://webarchive.nla.gov.au/wayback/20190208074326/https://ogpau.pmc.gov.au/sites/default/files/consultation/chris_culnane_benjamin_rubinstein_and_vanessa_teague.pdf;
 2. Dr. Julia Thornton:
https://webarchive.nla.gov.au/wayback/20190208074326/https://ogpau.pmc.gov.au/sites/default/files/consultation/julia_thornton.docx; and
 3. Dr. Colleen Lewis:
https://webarchive.nla.gov.au/wayback/20190208074805/https://ogpau.pmc.gov.au/sites/default/files/consultation/colleen_lewis.docx.
- ³⁰ Submissions from:
1. Fred Chaney and Bill Gray:
https://webarchive.nla.gov.au/wayback/20190208074326/https://ogpau.pmc.gov.au/sites/default/files/consultation/fred_chaney_and_bill_gray_0.pdf;
 2. Peter Timmins:
https://webarchive.nla.gov.au/wayback/20190208074543/https://ogpau.pmc.gov.au/sites/default/files/consultation/peter_timmins_2_1.pdf;
 3. Madeleine Roberts:
https://webarchive.nla.gov.au/wayback/20190208074805/https://ogpau.pmc.gov.au/sites/default/files/consultation/madeleine_roberts_redacted.pdf; and
 4. Geoff Gallup:
https://webarchive.nla.gov.au/wayback/20190208074805/https://ogpau.pmc.gov.au/sites/default/files/consultation/geoff_gallup.docx.
- ³¹ Australian Government Dept. of the Prime Minister and Cabinet, “(NAP2) Introduction to the Second National Action Plan” (2018), <https://ogpau.pmc.gov.au/national-action-plans/nap2-introduction-second-national-action-plan>.
- ³² Open Government Forum Australia, “Open Government Forum Meeting - 22 February 2018.”
- ³³ Open Government Forum Australia, “Open Government Forum Meeting - 7 December 2017.”
- ³⁴ During the development of the 2nd NAP, the Forum included members from: Dept. of the Prime Minister and Cabinet, New South Wales Information Commissioner, Digital Transformation Agency, National Archives of Australia, Office of the Australian Information Commissioner, Attorney-General’s Dept., Dept. of the Treasury, Dept. of Innovation, Industry and Science, and Dept. of Finance.
- ³⁵ See “3 - Discussion of Proposed Commitments” in Open Government Forum Australia, “Open Government Forum Workshop - 18 May 2018” (18 May 2018), <https://ogpau.pmc.gov.au/news/open-government-forum-workshop-18-may-2018>.
- ³⁶ *Id.* at “Outcomes for Open Government Forum Workshop of 18 May 2018.”
- ³⁷ See “4: Update on ‘Develop Ideas’ Phase” in Open Government Forum Australia, “Open Government Forum Meeting - 22 February 2018,” 1.
- ³⁸ For the process of synthesising ideas and creating shortlist, see Open Government Forum Australia, “Open Government Forum Meeting - 12 April 2018,” 4–12.
- ³⁹ The Forum met on 28 July 2017, 19 October 2017, 7 December 2017, 22 February 2018, 12 April 2018, 18 May 2018, 14 June 2018, and 12 July 2018.
- ⁴⁰ Open Government Forum Australia, “Open Government Forum Meeting - 12 April 2018;” Open Government Forum Australia, “Open Government Forum Meeting - 14 June.”
- ⁴¹ Updated Publication Timeline:
- 21 Jul. 2017: Agenda and papers for 28 Jul. 2017 meeting, available at: <https://ogpau.pmc.gov.au/news/first-meeting-australias-open-government-forum>;
 - 7 Aug. 2017: Minutes from 28 Jul. 2017 meeting, available at: <https://ogpau.pmc.gov.au/news/outcomes-australias-first-open-government-forum-meeting-28-july-2017>;
 - 24 Oct. 2017: Minutes from 19 Oct. 2017 Meeting, available at: <https://ogpau.pmc.gov.au/news/outcomes-open-government-forum-meeting-19-october-2017>;
 - Agenda and papers posted 16 Apr. 2019, available at: <https://ogpau.pmc.gov.au/news/open-government-forum-meeting-19-october-2017>.

- 30 Nov. 2017: Agenda and papers for 7 Dec. 2017 Meeting, available at: <https://ogpau.pmc.gov.au/news/open-government-forum-meeting-7-december-2017>;
- 20 Dec. 2017: Minutes of 7 Dec 2017 Meeting, available at: <https://ogpau.pmc.gov.au/news/outcomes-open-government-forum-meeting-7-december-2017>;
- 5 Feb. 2018: Outline on process to develop 2nd NAP, available at: <https://ogpau.pmc.gov.au/news/here's-how-we'll-develop-our-second-national-action-plan-2018-20>;
- 12 Feb. 2018: Agenda and papers for 22 Feb 2018 Meeting, available at: <https://ogpau.pmc.gov.au/news/open-government-forum-meeting-22-february-2018>;
- 9 Mar. 2018: Minutes from 22 Feb 2018 Meeting, available at: <https://ogpau.pmc.gov.au/news/outcomes-open-government-forum-meeting-22-february-2018>;
- 6 Apr. 2018: Agenda and papers for 12 Apr 2018 Meeting, available at: <https://ogpau.pmc.gov.au/news/open-government-forum-meeting-12-april-2018>;
- 11 May 2018 Minutes of 12 Apr 2018 Meeting, available at: <https://ogpau.pmc.gov.au/news/outcomes-open-government-forum-meeting-12-april-2018>;
- 18 May 2018: Additional Forum Workshop held, but documents posted 15 Apr. 2019, available at: <https://ogpau.pmc.gov.au/news/open-government-forum-workshop-18-may-2018>;
- 8 Jun. 2018 : Agenda and papers of 14 Jun 2018 Meeting, available at: <https://ogpau.pmc.gov.au/news/open-government-forum-meeting-14-june-2018>;
- Minutes for 14 Jun. 2018 Meeting posted on 15 Apr. 2019, available at: <https://ogpau.pmc.gov.au/news/outcomes-open-government-forum-meeting-14-june-2018>;
- 8, 12, 25 Jun. 2018: Articles advertising 'Draft Commitments' consultations, available at: <https://ogpau.pmc.gov.au/content/consultations-australias-second-open-government-national-action-plan-2018-20-opening-soon>; <https://ogpau.pmc.gov.au/news/final-consultations-starting-soon-our-next-national-action-plan>; <https://ogpau.pmc.gov.au/news/final-consultations-our-next-national-action-plan-now-open>;
- 12 Jul. 2018: Agenda and papers for 12 Jul. Meeting: <https://ogpau.pmc.gov.au/news/open-government-forum-meeting-12-july-2018>;
- 2 Sep. 2018: Minutes for 12 Jul. 2018 Meeting [not attached]: <https://ogpau.pmc.gov.au/news/outcomes-open-government-forum-meeting-12-july-2018>;
- 21 Oct. 2018: Release of 2nd NAP, available at: <https://ogpau.pmc.gov.au/news/australias-second-national-action-plan-2018-20-now-available>.

⁴² Open Government Forum Australia, "Open Government Forum Meeting – 22 February 2018," 2.

⁴³ Open Government Forum Australia, "Open Government Forum Meeting - 12 April 2018."

⁴⁴ For a classification of suggestions' support levels, see *id.* at 4–12.

⁴⁵ *Id.* at 2.

⁴⁶ Note the table contains 15 (rather than 14) potential commitments, with #2 (which relates to foreign donations) predicted to be resolved through legislation then before Parliament prior to the publication of the NAP. Concerned members were encouraged to write directly to the Special Minister of State. See *id.* at 5.

⁴⁷ See "3: Discussion of Proposed Commitments" in Open Government Forum Australia, "Open Government Forum Workshop - 18 May 2018," 2–4.

⁴⁸ Open Government Forum Australia, "Open Government Forum Workshop - 18 May 2018."

⁴⁹ Open Government Forum Australia, "Open Government Forum Workshop - 14 June 2018," 3; Open Government Forum Australia, "Open Government Forum Workshop - 12 July 2018." This final reduction reclassified three NAPI commitments as continuations rather than NAP2 commitments, and dismissed a "justice impact test," which received prior concerns. See Open Government Forum Australia, "Open Government Forum Workshop - 18 May 2018."

⁵⁰ Open Government Forum Australia, "Open Government Forum Workshop - 14 June 2018," 2.

⁵¹ Open Government Forum Australia, "Final Consultations for Our Next National Action Plan Now Open."

⁵² *Id.*

⁵³ Open Government Forum Australia, "Open Government Forum Workshop - 12 July 2018," 2, 4.

⁵⁴ *Id.*

⁵⁵ *Id.* at 2.

⁵⁶ *Id.* at 2–5.

⁵⁷ Australian Government Dept. of the Prime Minister and Cabinet, "Australia's Second National Action Plan 2018-20 Now Available" (21 Oct. 2018), <https://ogpau.pmc.gov.au/news/australias-second-national-action-plan-2018-20-now-available>.

⁵⁸ Open Government Partnership, "OGP Participation and Co-Creation Standards", <https://www.opengovpartnership.org/ogp-participation-co-creation-standards/>

⁵⁹ Open Government Forum Australia, "Open Government Forum Workshop – 12 April 2018," 1.

⁶⁰ See

- <https://twitter.com/DTA/status/967961346376548353> (25 Feb. 2018);
- <https://twitter.com/DTA/status/1013240875420397569> (30 Jun. 2018);
- <https://twitter.com/DTA/status/795762944588083200> (7 Nov. 2016);
- <https://twitter.com/agdgovau/status/795413461866082304> (6 Nov. 2016);
- <https://twitter.com/DTA/status/794313227891068933> (3 Nov. 2016); and
- <https://twitter.com/DTA/status/793664041835266048> (2 Nov. 2016).

⁶¹ A survey of Factiva archives revealed no press releases in major newspapers regarding the latest NAP consultations or forum nominations. Articles specifically regarding OGP Australia were rare, with Australia's involvement in the Partnership often limited to passing mentions. Several notable results beginning from November 2016 are returned for "Open Government Forum" and "Australia" as well as "Open Government Partnership" and "Australia."

IV. Commitments

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's/entity's unique circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP-participating countries.¹ The indicators and method used in the IRM research can be found in the IRM Procedures Manual.² A summary of key indicators the IRM assesses is below:

- **Verifiability:**
 - Not specific enough to verify: As written in the commitment, do the objectives stated and actions proposed lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment process?
 - Specific enough to verify: As written in the commitment, are the objectives stated and actions proposed sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment process?
- **Relevance:** This variable evaluates the commitment's relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance are:
 - Access to Information: Will the government disclose more information or improve the quality of the information disclosed to the public?
 - Civic Participation: Will the government create or improve opportunities or capabilities for the public to inform or influence decisions or policies?
 - Public Accountability: Will the government create or improve public facing opportunities to hold officials answerable for their actions?
 - Technology & Innovation for Transparency and Accountability: Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?
- **Potential impact:** This variable assesses the *potential impact* of the commitment, if completed as written. The IRM researcher uses the text from the action plan to:
 - Identify the social, economic, political, or environmental problem;
 - Establish the status quo at the outset of the action plan; and
 - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
- **Completion:** This variable assesses the commitment's implementation and progress. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report*.
- **Did It Open Government?:** This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report*.

What makes a potentially starred commitment?

A potentially starred commitment has more potential to be ambitious and to be implemented. A good commitment is one that clearly describes the:

1. **Problem:** What is the economic, social, political, or environmental problem? Rather than describing an administrative issue or tool (e.g., 'Misallocation of welfare funds' is more helpful than 'lacking a website.').
2. **Status quo:** What is the status quo of the policy issue at the beginning of an action plan (e.g., "26 percent of judicial corruption complaints are not processed currently.")?
3. **Change:** Rather than stating intermediary outputs, what is the targeted behavior change that is expected from the commitment's implementation (e.g., "Doubling response rates to information requests" is a stronger goal than "publishing a protocol for response.")?

Starred commitments

One measure, the “starred commitment” (★), deserves further explanation due to its particular interest to readers and usefulness for encouraging a race to the top among OGP-participating countries/entities. Starred commitments are considered exemplary OGP commitments. To receive a star, a commitment must meet several criteria:

- Potential star: the commitment’s design should be **verifiable**, **relevant** to OGP values, and have **transformative** potential impact.
- The government must make significant progress on this commitment during the action plan implementation period, receiving an assessment of **Substantial** or **Complete** implementation.

This variable is assessed at the end of the action plan cycle, in the IRM implementation report.

General Overview of the Commitments

The action plan consisted of eight commitments covering topics including combating corruption among public officials and transparent electoral funding; the use and sharing of data and open contracting in procurement; enhancing public engagement by the public sector and in reviewing the public service; and extending open government initiatives beyond the federal government to include local initiatives and information access. The plan also commits to implement commitments from the first national action plan, which were not fully implemented, and to publicly report on progress to Australia’s Open Government Forum and publicly via the OGP Australia website until those commitments are fully implemented.³

¹ Open Government Partnership, “Open Government Partnership: Articles of Governance” (17 Jun. 2019), <https://www.opengovpartnership.org/articles-of-governance>.

² Open Government Partnership, *IRM Procedures Manual* (16 Sept. 2017), <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

³ Commonwealth of Australia, *Australia OGP National Action Plan 2018–2020*, (2018), 6, https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

I. Strengthen the national anticorruption framework

Commitment Text:

The Government will continue to consider and assess all options for strengthening the national anti-corruption framework to:

- ensure that sectors and activities vulnerable to corruption are covered;
- improve the framework's coherence, effectiveness and functioning; and
- better communicate the framework.

We will do this by analysing the coverage afforded at present by relevant government departments, agencies and other bodies and identifying any significant gaps in their jurisdiction, functions and resources. Our intention will be to continue to ensure the national anti-corruption framework is comprehensive, cohesive and effective.

Milestones:

- I.1 Government response to the Report of the Senate Select Committee on a National Integrity Commission
- I.2 Civic engagement in ongoing review of the national integrity framework
- I.3 Implement Government response to the Report of the Senate Select Committee on a National Integrity Commission and any other outcomes of ongoing review of the national integrity framework

Start Date: September 2018

End Date: August 2020

Editorial Note: This is a partial version of the commitment text. For the full commitment text, see the Australia National Action Plan available at https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | | ✓ | | | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment, like Commitment 12 in Australia's first national action plan, aims to assess, and possibly to reform, the framework of measures intended to identify and respond to corruption at the federal government level. As the Senate Select Committee on a National Integrity Commission reported in September 2017:

“the [federal government's] approach to public sector integrity and corruption comprises a multi-agency framework in which different agencies have distinct but at times overlapping responsibilities for maintaining the integrity of and addressing corruption within the Commonwealth public sector.”¹

This has resulted “in a complex and poorly understood system that can be opaque, difficult to access and challenging to navigate.”² The Committee therefore recommended that the federal government strengthen the national integrity framework to make it more coherent, comprehensible, and accessible.³

Several civil society members, in submissions to the Senate Select Committee report and in the development of the second national action plan, called for a national integrity commission to restore public confidence that corruption is being addressed and fill gaps in the current system.⁴ However, the Senate Select Committee did not recommend a new integrity agency. Rather, the Committee merely advocated for further consideration of the need for a national integrity commission, following two reviews that were incomplete at the time of the Committee's report: a review of the jurisdiction and capabilities of the current integrity framework as part of Commitment 12 (NAPI); and a project funded by the Australian Research Council involving Griffith University and Transparency International Australia.⁵ Neither review was complete at the time of establishing the second action plan.⁶

This commitment is verifiable, but it lacks specificity in its milestones. It calls for a government response to the Senate Select Committee report, civic engagement in reviewing the existing national integrity framework, and implementation of the response and the results of that consultation. These are all identifiable at the end of the implementation period. However, whether the precise nature and form of implementation will involve publicly verifiable steps will depend on the nature of the government response and results of the civic engagement. Given past practice, the government response to the Senate Select Committee Report will likely involve publishing the government's implementation steps, if any. Similarly, civic engagement will generally involve consultation of some form outside of government.

The general description of the commitment recognises that:

“[t]here may be opportunities to strengthen the existing framework to ensure it functions more effectively and more cohesively, to better communicate the functions and agencies that make up the national anti-corruption framework, and/or improve trust and confidence in the framework.”⁷

However, the commitment does not identify any opportunities to enhance public accountability or to make available further information to the public. These values may, however, be enhanced through the government response or consultation process. Although it may prove to be limited to the provision of information, the proposition for civic engagement in the review of the integrity framework makes this commitment relevant to the OGP value of civic participation.

This commitment stands to have minor potential impact on ensuring a comprehensive, cohesive, and effective national anticorruption framework. However, as a result of the commitment's lack of specificity, it is difficult to conclude the extent of its potential impact. The commitment does not detail the nature of any civic engagement and there has been no other indication of the nature of that engagement outside of the commitment context. Given the significant consultation involved in preparing the Senate Select Committee report, further civic engagement is unlikely to extend the range of civil society, business or community groups, or individuals who might be interested in this issue. However, the presence of civil society in implementing this commitment may incrementally change standard practice through the independent review of the existing framework and mobilising public support.

Next Steps

There have been several inquiries into the establishment of an integrity body at the federal level and a variety of views expressed as to its jurisdiction and powers. The re-elected Liberal/National party coalition government will likely introduce legislation to establish a Commonwealth Integrity Commission, as announced in December 2018; however, they have not yet proposed such legislation.⁸ Commitment 1 is premised on the continuing relevance of the current multi-agency approach to government integrity. Continuing to review this approach may therefore be of limited value given the likelihood of a new body being introduced.

Given the potential importance of such a body in holding public bodies accountable, the design, implementation, and operation of the proposed Commonwealth Integrity Commission should be included in any future national action plans. This could include a collaborative engagement between government, civil society, and the public with better-defined and measurable indicators of success. For example, the government could assess public perception of the need for a national integrity commission through a survey. Results of the survey could then be used to demand more political commitment from the Senate Select Committee to either establish a commission or, alternatively, develop a standard reference to streamline the current multi-agency framework.

¹ “Senate Select Committee on a National Integrity Commission Report”, (Commonwealth of Australia, 13 Sep. 2017), https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/National_Integrity_Commission/IntegrityCommissionSen/Report (“Senate Select Committee Report”).

² Senate Select Committee Report at 217.

³ Senate Select Committee Report at 218.

⁴ See the range of submissions in the Senate Select Committee Report at 182–185.

⁵ Griffith University, “Public Integrity and Anti-Corruption” (accessed Sept. 2020), <https://www.griffith.edu.au/centre-governance-public-policy/our-research/public-integrity-anti-corruption>.

⁶ A. J. Brown, et al., *A National Integrity Commission – Options for Australia* (Griffith University and Transparency International Australia, Aug. 2018), https://www.griffith.edu.au/_data/assets/pdf_file/0029/518249/Full-Report-National-Integrity-Options-August-2018.pdf.

⁷ Commonwealth of Australia, *Australia OGP National Action Plan 2018–2020*, (2018), 9,

https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

⁸ Dept. of the Prime Minister and Cabinet, “Legislation Proposed for Introduction in the 2019 Winter/Spring Sittings” (accessed Jun. 2020), <https://www.pmc.gov.au/sites/default/files/publications/2019-winter-spring-public-list.pdf>.

2. Enhance the transparency of political donations and funding

Commitment Text:

Australia will investigate options for enhancing the timeliness and the accessibility of relevant information, through enhancing the electoral funding and disclosure scheme.

Milestones:

- 2.1 JSCEM Inquiry and reporting
- 2.2 Government considers recommendations
- 2.3 Parliament and other relevant stakeholders consider Government decisions

Start Date: September 2018

End Date: August 2020

Editorial Note: This is a partial version of the commitment text. For the full commitment text, see the Australia National Action Plan available at https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| 2. Overall | ✓ | | Unclear Relevance | | | | ✓ | | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment aims to review options for publishing political donations and expenditures in a more timely and accessible manner.

According to the Australian Electoral Commission, gifts and donations to political candidates and parties (including for states, territories, and associated entities) above a threshold¹ must be publicly disclosed.² Other bodies, including private corporations and charities, who make a donation to a candidate or political party, or incur political expenditures, must also publish any amounts above the threshold.³

Political candidates must also publish the total value of any election donations they received, any individual donations they received above the disclosure threshold, and the total electoral expenditure incurred between the commencement of the election process and election day.

The rules around disclosing political expenditure were recently amended by the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018*, which introduced restrictions on political donations by foreign entities and requires disclosure of contributions to entities who perform political campaigning. These entities, potentially including charities or non-profit groups, whose election expenditures exceed the threshold,⁴ must register and provide an annual return in the same way as political parties and candidates.

All annual returns are publicly available for scrutiny through the Australian Electoral Commission on the first working day in the following February.⁵ Therefore, some donations or expenditures may not be published for up to 18 months. Election returns have to be lodged with the Australian Electoral Commission within 15 weeks of the election, and they are published on the Australian

Electoral Commission website 24 weeks after the election.⁶ Therefore, election donations in the lead up to elections are only made public well after the election has been decided.

A number of reviews identify the need for greater transparency and timely accessibility of election expenditures, since the introduction of the current system in 2006.⁷ Participants in the Senate Select Committee into the Political Influence of Donations (which received 36 submissions from the public and held three days of public hearings) stated that the delayed exposure of political donations frustrated the objective of identifying and avoiding undue influence on politicians, and restricted informed decisions in elections.⁸ Some participants also highlighted the difficulties of scrutinising the information available due to the manner in which it was presented.⁹ The Select Committee recommended online, continuous, real-time disclosure of donations to political parties, candidates, and associated entities; and that the information be more accessible and usable. However, the incumbent government members on the Select Committee did not agree with the majority recommendation.

This commitment aims to increase available information about electoral expenditures to inform electors and reduce undue political influence. However, its terms do not directly provide for increased information to the public or improve public accountability. It is also unclear whether any provisions advance civic participation. Therefore, this commitment is of unclear relevance to OGP values.

Milestone 2.1 refers to the inquiry and reporting by the Joint Standing Committee on Electoral Matters (JSCEM). The Commitment provides a link to the inquiry by that Committee into the 2016 election, which was due to report by the end of 2018. That inquiry was established on 21 September 2016. The terms of reference for that Committee include “[t]he current donations, contributions, expenditure and disclosure regime, its application and timeliness and alternative approaches available to Parliament.”¹⁰ That inquiry was also the subject matter of Commitment 11 of the first National Action Plan.¹¹

The Joint Standing Committee published a paper on political donations in September 2017, which mentioned the perceived lack of transparency due to the untimely disclosures but did not specifically call for further submissions on this issue.¹² Submissions were invited until 29 September 2017, with public hearings in September and October 2017. The only public hearings held in this inquiry after the second action plan began in August 2018 were in November 2018, and submissions from that hearing did not address the timeliness of disclosure of electoral expenditure.

The Joint Standing Committee provided its final report on the 2016 election in November 2018. The Committee proposed a number of reforms, including limiting political donations and expenditures, timely disclosures, lowering disclosure thresholds, and establishing an anticorruption body.¹³ The Committee commented, however, that there would be time to review these and other reform proposals after the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018* was passed and implemented.¹⁴

As any submissions, information on public hearings, and reports of the Joint Standing Committee are generally available on the Committee website, it follows that the envisioned inquiry and report by the Standing Committee will also be publicly available.¹⁵ However, government consideration of the report, as well as Parliament and other key stakeholder consideration of any government decisions on the report, may not be made public or result in tangible outcomes. This commitment overall is therefore not verifiable.

As described above, there is no clear commitment to increase civic participation through this commitment. The Joint Committee also did not make any recommendations to fix the timing and accessibility of election expenditure disclosure, and instead merely stated the need for further reviews of possible reforms in this area. It is therefore unlikely that any consideration of the Joint Committee report will enhance the transparency of political donations and funding.

Next Steps

This commitment continues the review of electoral matters that was the subject of Commitment 11 from NAPI. The Joint Standing Committee on Electoral Matters traditionally reviews matters arising from each federal election,¹⁶ so it is likely that consideration of the timeliness of electoral expenditure disclosures will be considered during the review of the 2019 election. The timeliness and accessibility of information relating to political donations and election expenditures is important. The current timing has not been substantially amended since 2006. Therefore, there is limited benefit in holding a further review of this issue.

In its report on the 2016 federal election, the Joint Committee noted the large number of previous inquiries into political donations, and that “a degree of [submission] fatigue has set in.”¹⁷ Therefore, future action plans should include a more ambitious commitment that implements recommendations from collaboration between academics, civil society, the Australian Electoral Commission, and other government agencies.

Consideration should also be given to evaluating the impact of reforms of electoral expenditure disclosures by the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018*, including the impact of registration and disclosure requirements on charities and other non-profit organizations.

¹ The threshold that applied from 1 July 2017 to 30 June 2018 was AU\$ 13,500; indexed each year based on increases to the consumer price index. See Australian Electoral Commission, “Disclosure Threshold” (25 May, 2020), https://www.aec.gov.au/Parties_and_Representatives/public_funding/threshold.htm.

² Candidates have to lodge an annual return with the Australian Electoral Commission by 20 October each year, providing details on the total amounts and individual receipts above the threshold. Disclosure of individual amounts greater than the threshold must include the name, address, and total contribution of each donor. See Australian Electoral Commission, “Financial Disclosure Overview” (accessed Jun. 2020), https://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/Overview.htm. See also *Commonwealth Electoral Act 1918* (Cth), Part XX.

³ See *Commonwealth Electoral Act 1918* (Cth) s. 314AEB. Political expenditures are generally for the purpose of influencing electors in a federal election. Prior to 1 December 2018, “political expenditure” was defined through reference to various legislative provisions and included expenditures on the public opinions of politicians or issues likely to be raised in future elections. This definition was amended by the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018*. Annual returns have to be lodged by 17 November each year and detail the total donations and expenditures from the prior financial year. Australian Electoral Commission, “Financial Disclosure Overview.”

⁴ The threshold is electoral expenditures over AU\$ 500,000 during that financial year or any one of the previous three financial years; or electoral expenditure over AU\$ 100,000 during that financial year and electoral expenditures during the previous financial year if they are at least two-thirds of the revenue of the person or entity for that year. Australian Electoral Commission, “Candidates and political participants” (17 Oct. 2019), https://www.aec.gov.au/Parties_and_Representatives/index.htm.

⁵ Australian Electoral Commission, “Transparency Register” (18 Sept. 2020), https://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/transparency-register/.

⁶ Australian Electoral Commission, “Financial Disclosure Overview.”

⁷ See Joint Standing Committee on Electoral Matters, “Report on the Funding of Political Parties and Election Campaigns” (2011); Joint Standing Committee on Electoral Matters, “Review of the AEC analysis of the FWA Report on the HSU” (Sept. 2012).

⁸ Select Committee into the Political Influence of Donations, *Political Influence of Donations* (Commonwealth of Australia, Jun. 2018), https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Political_Influence_of_Donations/PoliticalDonations/Report_1.

⁹ *Id.* at 76–77.

¹⁰ Joint Standing Committee on Electoral Matters, “Inquiry into and Report on All Aspects of the Conduct of the 2016 Federal Election and Matters Related Thereto: Terms of Reference” (Parliament of Australia, Nov. 2018), https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election/Terms_of_Reference.

¹¹ By the time of the development of the second national action plan, the Committee had released three interim reports on various other aspects of the 2016 election. For a description of these reports, see Daniel Stewart, *Independent Reporting Mechanism (IRM): Australia End-of-Term Report 2016–2018*, (Open Government Partnership, Apr. 2020), https://www.opengovpartnership.org/wp-content/uploads/2020/04/Australia_End-of-Term_Report_2016-2018.pdf, 49.

¹² Parliament of Australia, “Inquiry into and Report on All Aspects of the Conduct of the 2016 Federal Election and Matters Related Thereto: Review of Political Donations” (12 Dec. 2017), <https://www.aph.gov.au/DocumentStore.ashx?id=f729f0a8-c213-400d-b386-7d126ec6b4d9>.

¹³ Parliament of Australia, “Report on the conduct of the 2016 federal election and matters related thereto” (November 2018) at 134–142, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024085/toc_pdf/Reportontheconductofthe2016federalelectionandmattersrelatedthereto.pdf;fileType=application%2Fpdf

¹⁴ *Id.* at 143.

¹⁵ Parliament of Australia, “Senate Brief No.4 – Senate Committees” (May 2020), https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Senate_Briefs/Brief04.

¹⁶ For a list of reviews, see Joint Standing Committee on Electoral Matters, “Committee Activities (Inquiries And Reports)” (accessed Jun. 2020), https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Completed_Inquiries/em/reports.

¹⁷ Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2016 federal election and matters related thereto* (Parliament of Australia, Nov. 2018), 124, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024085/toc_pdf/Reportontheconductofthe2016federalelectionandmattersrelatedthereto.pdf;fileType=application%2Fpdf.

3. Improve the sharing, use and reuse of public sector data

Commitment Text:

Building on commitments under Australia's first National Action Plan, this commitment focuses on the implementation of data governance reforms announced by the Australian Government in May 2018. These reforms will increase data access and use within government and with trusted users outside government, while improving data privacy and security with strengthened and consistent safeguards.

PM&C commits to consulting across government, through the new National Data Advisory Council (see current Action Plan), with the Open Government Forum and with the public including businesses, civil society groups and research and non-profit sectors to design and develop the implementation of the reforms.

As a first step, the Government has released an Issues Paper for public feedback and comments by 1 August. The paper outlines an approach to a new Data Sharing and Release Bill which aims to balance sharing data held by government with appropriate risk management.

As committed under Australia's first National Action Plan, the National Data Advisory Council will be a multi-disciplinary expert panel drawn from public sector and civic society organisations.

Milestones:

- 3.1 Appoint National Data Commissioner
- 3.2 Consultation on the approach to the design of the legislation to ensure it balances sharing data held by government with appropriate risk management
- 3.3 Establish National Data Advisory Council to advise the National Data Commissioner
- 3.4 National Data Commissioner issues first guidance and standards

Start Date: September 2018

End Date: August 2020

Editorial Note: This is a partial version of the commitment text. For the full commitment text, see the Australia National Action Plan available at https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| 3. Overall | | ✓ | ✓ | ✓ | | | | | ✓ | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment aims to address legal and practical barriers in expanding the use of government held data and information by implementing specific data governance reforms. The commitment reflects part of the federal government's response to a report by the Productivity Commission on Data Availability and Use,¹ which found that the "[l]ack of trust by both data custodians and users in existing data access processes and protections and numerous hurdles to sharing and releasing data are choking the use and value of Australia's data."² The commitment seeks to do this by designing legislation that standardises and streamlines transparent approaches to the access and use of data, and establishing new operational and institutional arrangements, through the appointment of a National Data Commissioner. The Commitment therefore seeks to ensure that any increase in the use and sharing of government data does not come at the expense of eroding public trust.

Specifically, the appointment of a National Data Commissioner, who will oversee and monitor the integrity of Australia's data system will aim to increase public confidence in the government's data management.³ In doing so, the Commissioner will, among other responsibilities, release best practice guidelines and standards on the use and sharing of government information.⁴ The commitment also proposes public consultations to determine the approach to designing legislation to balance data disclosure and risk management, and the establishment of a multidisciplinary National Data Advisory Council to advise the Commissioner.

The appointment of the Commissioner, the public consultations, the establishment of the National Data Advisory Council, and the issue of guidance and standards are all generally verifiable, but the scope of these activities could be more specific. It is unclear, for instance, if the consultations "on the approach to the design of the legislation" will extend to designing the legislation itself. However, the public nature of consultations undertaken to date, including the publication of responses to a related issues paper,⁵ means that at least some aspects of consultation will be verifiable.

The government released an issues paper on an approach to a new data-sharing and release bill on 4 July 2018, which identified broad principles to be embodied in the legislation. The paper also sought responses to issues around the Productivity Commission's recommended reforms. The paper invited comments by 1 August 2018, which the federal government would consider in developing the legislation.⁶ It also stated that the federal government would engage in further consultations through a Privacy Impact Assessment and Exposure Draft Bill process.⁷ It is unclear whether the scope of this commitment extends to this further consultation.

This commitment is relevant to the OGP values of access to information and civic participation as it aims to introduce legislation to reform data governance, conduct public consultations on the approach to designing such legislation, and release guidelines and standards through the Data Commissioner. The proposed advisory Council itself will also provide for multistakeholder participation. The 2018 issues paper references establishing a Council of representatives from the government, academia, industry, and privacy groups.⁸ The Council, which will consult widely with community groups, will provide advice on ethical data use, technical best practice, and the latest industry and international developments.⁹ A call for interest in joining the Council was announced on 5 July 2018, with responses due on 20 July 2018.¹⁰

If fully implemented as written, the data governance reforms proposed under this commitment stand to have moderate potential impact on enhancing the government's access to and use of data while maintaining the trust of providers, custodians, potential users and the public generally. The new legislation, the appointment of the Data Commissioner, and the issue of guidance and standards will provide a legal and institutional framework to reduce legal and practical barriers and thus increase data use and sharing within government or with trusted partners. Ensuring widespread and effective consultation on the design of that legislation, an effective oversight role of an advisory council with a diverse range of interests and expertise, and a transparent and consultative approach to the work of the Data Commissioner can ensure the new governance framework appropriately balances sharing and re-use with appropriate risk management to prevent any erosion of public trust.

However, the success of this commitment hinges not only on the eventual scope and content of the final legislation, but also on how it will be implemented. The results of this reform depend on the enforcement power the Data Commissioner will have to increase accountability of the data governance process, including being able to monitor and enforce unbiased information and data use and disclosure—particularly where relevant administrative agencies guard and tailor sector-specific data.¹¹ Among other risks that may undermine the outcomes of this process, the Accountability Round Table (ART) highlights that the commitment may also have the negative effect of excluding public access to government data if it incentivizes limited proactive sharing of information, and containing such information primarily within government.¹²

In addition, although the new law proposed under this commitment will function alongside existing legislation and data safeguards, the prospect of increased data sharing and use requires substantial, and clear public communication of, additional protections in order to ensure public trust.¹³

Enhancing government authority over the use of data without concurrently expanding opportunities for public scrutiny may eventually compromise the value that could be derived through responsible use of government-held data. Any new governance framework must ensure public transparency and accountability of both government practice and the oversight role of the Data Commissioner and Advisory Council under any new data governance framework.

Next Steps

The government could evaluate the impact of the new legislation and institutional framework on the release of information by government agencies and report on their compliance with the legislation and the National Data Commissioner's requirements and guidance. This evaluation could extend to the composition and role of the National Data Advisory Council and its relationship with other federal officers, including the Australian Information Commissioner and the National Statistician. If not already envisioned in the Commissioner's mandate, the government could also strengthen the authority of the Commissioner by equipping the role with an appropriate mechanism to mandate administrative agencies to disclose government-held data about public sector programs and activities.

The commitment is also limited to federally-held data, despite the IRM's recommendation for further collaboration between federal, state, and territory governments.¹⁴ The Australian Digital Council, consisting of government ministers at all levels, is intended to establish proposals for better cross-government collaboration on data and digital transformation.¹⁵ This Council will examine how a national data system could be realised, including identifying the current barriers to data-sharing between jurisdictions as well as opportunities to opt in to the Commonwealth's data-sharing legislation.¹⁶ The establishment, role, and evaluation of any inter-jurisdictional group could be the basis of future national action plan commitments in this area.

¹ Productivity Commission of Australia, "Data Availability and Use Report" (8 May 2017), <https://www.pc.gov.au/inquiries/completed/data-access/report>.

² *Id.* at 2.

³ An interim National Data Commissioner was appointed on 9 August 2018. Office of the National Data Commissioner, "National Data Commissioner" (accessed Sept. 2020), <https://www.datacommissioner.gov.au/about/commissioner>.

⁴ Dept. of the Prime Minister and Cabinet, *The Australian Government's response to the Productivity Commission Data Availability and Use Inquiry* (Commonwealth of Australia, 2018), 10, <https://dataavailability.pmc.gov.au/sites/default/files/govt-response-pc-dau-inquiry.pdf>.

⁵ Dept. of the Prime Minister and Cabinet "Data Sharing and Release Submissions" (Jul. 2018), <https://www.pmc.gov.au/public-data/data-sharing-and-release-reforms/submissions>.

⁶ Dept. of the Prime Minister and Cabinet, *New Australian Government Data Sharing and Release Legislation: Issues Paper for Consultation* (4 Jul. 2018), 5, <https://www.pmc.gov.au/resource-centre/public-data/issues-paper-data-sharing-release-legislation>.

⁷ *Id.* at 7.

⁸ *Id.* at 9.

⁹ *Ibid.*

¹⁰ Dylan Bushell-Embling, "Applications Open for Data Advisory Council" (Technology Decisions, 5 Jul. 2018), <https://www.technologydecisions.com.au/content/it-management/news/applications-open-for-data-advisory-council-624950591>; Harley Dennett, "Data Sharing: Feedback and Advisors Sought as Scheme Takes Shape" (*The Mandarin*, 6 Jul. 2018), <https://www.themandarin.com.au/95423-data-sharing-feedback-and-advisors-sought-as-scheme-takes-shape/>. The Council members were announced on 27 March 2019. Dept. of the Prime Minister and Cabinet, "Eminent Australians to Provide Advice on Data Usage" (27 Mar. 2019), <https://ministers.pmc.gov.au/keenan/2019/eminant-australians-provide-advice-data-usage>.

¹¹ "Comments on draft Australia Design Report 2018-2020" Independent Reporting Mechanism (IRM), Accountability Roundtable (ART)

¹² *Ibid.*

¹³ See, for example, submissions by the Privacy Foundation, Melanie Marks et al, and the OpenAustralian Foundation on the New Australian Government Data Sharing and Release Legislation, Issues paper for consultation, available at <https://www.pmc.gov.au/public-data/data-sharing-and-release-reforms/submissions>.

¹⁴ Daniel Stewart, *Independent Reporting Mechanism (IRM): Australia Progress Report 2016-2018* (Open Government Partnership, 2018), https://www.opengovpartnership.org/wp-content/uploads/2018/05/Australia_Mid-Term_Report_2016-2018.pdf.

¹⁵ Dept. of the Prime Minister and Cabinet, *Terms of Reference: Australian Digital Council* (22 Aug. 2019), available at: <https://www.pmc.gov.au/resource-centre/public-data/terms-reference-australian-digital-council>.

¹⁶ Dept. of the Prime Minister and Cabinet, *Australian Digital Council Communiqué 14 September 2018*, (14 Sept. 2018), <https://www.pmc.gov.au/resource-centre/public-data/australian-digital-council-communique>.

4. Improve public service practices using place-based approaches

Commitment Text:

The Government will explore ways to encourage the application and broader adoption of place-based approaches across the public service and provide recommendations for how the public service could apply a more place-centred, transformational and joined-up delivery approach to its work.

This will be done by establishing mechanisms for the public service to learn from place-based approaches already underway, such as Cities Deals, and Empowered Communities, Stronger Communities for Children, and Logan Together. The learning focus will be on good practice and challenges in relation to delegation and accountability for local planning, engagement and service delivery to support place-based approaches and listening to the experiences of citizens.

Milestones:

- 4.1 Finalise scope of works. Relevant Commonwealth agencies will be consulted on the scope of works. Other relevant stakeholders will be invited to contribute their perspectives to the learning report
- 4.2 Develop a framework/mechanism for the public service to learn from existing place-based approaches
- 4.3 Capture learnings from existing place-based approaches
- 4.4 Finalise report on learnings
- 4.5 Provide government with recommendations based on learnings and seek government's agreement to publish recommendations

Start Date: September 2018

End Date: August 2020

Editorial Note: This is a partial version of the commitment text. For the full commitment text, see the Australia National Action Plan available at https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| 4. Overall | | ✓ | | ✓ | | | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment examines existing place-based approaches and consults government agencies and other stakeholders to understand and make recommendations for how the public sector can better utilise place-based approaches.

A place-based approach recognises that some policies may not be suited to local conditions, particularly in areas of disadvantage. It therefore attempts to use meaningful, local, public, multistakeholder participation in policy development and service delivery, from community participation in government prioritisation, to local coordination of centrally funded programs and even local control over the expenditure of pooled funds.¹

Logan Together, for example, is a program attempting to help 5,000 children achieve developmental milestones by the age of eight, and it involves over 100 organisations and 1,000 people in a number of community-based projects. It has enabled decision-making to be devolved to the local

communities to coordinate expenditures and integrate services around the needs of local families and communities.² Similarly, the *Stronger Communities for Children* program operates across ten sites in the Northern Territory, and joins local communities with service providers and other stakeholders in areas like building communities' capacity to lead, plan, and prioritise services that families and children need.³

Place-based approaches can improve inclusion and enhance civic participation. However, this commitment merely promises government examination of place-based approaches and not actual adoption. Although it is unclear which stakeholders will be engaged in this learning-focused initiative, this commitment is relevant to civic participation. There is also the possibility that the commitment will lead to additional information being made available on the operation and limitations of current approaches. However, the commitment does not make any such information publicly available, and instead only seeks government agreement to publish recommendations.

This commitment is generally verifiable. A scope of work finalised by the stakeholders, a mechanism to learn from existing approaches, and a final report on their lessons are all potentially verifiable activities. However, several milestones lack specificity as the commitment, as written, does not specify what information will be disclosed, how consultations will occur, or whether the government will provide any feedback in the implementation of this commitment.

If fully implemented as written, this commitment stands to have a minor potential impact on the introduction of place-based approaches in public service delivery. The commitment does not attempt to extend the use of place-based approaches but merely investigates how such approaches may be extended in the future. While the implementation of recommendations that arise out of this commitment might impact service delivery, the precise extent of such impact is unclear without an understanding of the recommendations' ambition.

Next Steps

Place-based initiatives can enhance local public participation in the development and delivery of public services. Many current projects have led to the publication of additional information, and by devolving decision-making to the local level, potentially increased accountability as well. Evaluating and developing the capacity to employ place-based initiatives could therefore significantly support OGP values.

The government should consider a more ambitious commitment in the future and publish all results from the engagement process undertaken in this commitment. It should develop a collaborative approach to the identification, prioritisation, and development of place-based approaches in the future.

¹ Centre for Public Impact, "Place-Based Approaches: An Agenda for an Incoming Government" (*The Mandarin*, 14 May 2019), <https://www.themandarin.com.au/108447-place-based-approaches-an-agenda-for-an-incoming-government/>.

² For further information, see <https://logantogether.org.au/>.

³ Dept. of the Prime Minister and Cabinet, "Evaluation: Stronger Communities for Children" (accessed Jun. 2020), <https://www.niaa.gov.au/resource-centre/indigenous-affairs/stronger-communities-children-evaluation-report>.

5. Engage States and Territories to better understand information access

Commitment Text:

This commitment will better provide for subnational participation in the Open Government Partnership process to build understanding of information access frameworks. We will achieve this by:

1. facilitating administrative arrangements between state and territory governments and Australian Government officials responsible for Australia's Open Government commitments to support collaboration and learning on open government matters (including highlighting the opportunity for formal subnational cooperation and membership in the Open Government Partnership), and
2. engaging with Information Commissioners and Ombudsmen to seek agreement to conduct surveys to measure citizens' awareness of the right to access government information, and their experiences and outcomes in exercising that right. These surveys will inform activities to promote and support the right to access government information.

Milestones:

- 5.1 Administratively engage state and territory governments to raise awareness of the Open Government Partnership, support collaboration and learning on open government matters, and highlight the opportunity for formal cooperation and subnational membership.
- 5.2 Engage with state and territory Information Commissioners to:
 - a. agree to the design of a survey to measure the value citizens place on the right to access government information, and their awareness of, and their experiences and outcomes in exercising that right
 - b. conduct survey
 - c. analyse and publish results of survey

Start Date: September 2018

End Date: August 2020

Editorial Note: This is a partial version of the commitment text. For the full commitment text, see the Australia National Action Plan available at https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| 5. Overall | | ✓ | ✓ | ✓ | | | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

The Commonwealth, states, and territories have separate policies and legislative frameworks for access to government information. This includes legislation generally providing for public access to government information either proactively and/or upon request. The enforcement of this legislation (and in some instances, the right to review decisions on releasing information) is administered by an information commissioner, or ombudsman, who must inform the public on the implementation of right-to-information legislation.¹ Policies on privacy protection, open data, and data-sharing can vary across jurisdictions.

This commitment builds on Commitment 9 from NAPI. That commitment developed, collected, and published metrics measuring the public's use of access to information rights. This commitment seeks to extend that effort and measure the value citizens place on the right to access government information, their awareness of this right, and their experiences and outcomes in exercising that right. It will also seek to raise awareness of possible state and territory involvement in the Open Government Partnership and explore opportunities for greater collaboration and learning between jurisdictions on open government.

This commitment is generally verifiable. The proposed activities for engaging state and territory governments to design, execute, and publish citizen survey findings on access to government information are verifiable. It is also possible to record and verify activities that aim to engage state and territory governments in promoting open government. However, the milestones lack specificity as to what form of administrative engagement is intended, and whether such engagement is likely to result in any further open government initiatives. This lack of specificity hinders a thorough assessment of the potential impact of this commitment.

By surveying the public for their perceptions on access to government information, which could later inform policies, this commitment may enable civic participation in decision-making. However, the terms of the commitment do not include public participation in the design or analysis of the survey, like what questions will be asked or how participants will be selected. The analysis and publication of the survey may increase public access to information, and greater awareness and cooperation between jurisdictions on open government initiatives may indirectly improve programs relevant to OGP values.

If fully implemented as written, this commitment stands to have minor potential impact on improving public access to information, and civic participation in decision-making through state and territory governments. Although it is unclear whether the survey will be open to the public at large, the survey may provide new information on citizen perceptions, albeit not significantly greater than that already collected at the national level. The commitment also does not specify how the government intends to use the survey findings. Greater inter-governmental cooperation may help to identify and increase awareness of open government initiatives in different jurisdictions, but without high-level support, any encouragement of further open government initiatives is unlikely to be significant.

Next Steps

In the progress report on the first national action plan, the IRM recommended that the role of the Open Government Forum be expanded to include consideration of open government initiatives at the state and territory level. This would enhance coordination between jurisdictions and might develop subnational open government commitments. Expanding the range of jurisdictions working on open governance can broaden the scope of open government initiatives and raise awareness of the OGP.

Australia responded to that recommendation by including this commitment to engage states and territories, allowing the Forum to play an indirect role in promoting such coordination and cooperation. Further cross-jurisdictional analysis of public use and perceptions of access to information laws can also increase the use and reform of such laws.

It is therefore recommended that future national action plans include a commitment to ensure cooperation and coordination between the Commonwealth, states, and territories, perhaps by formalising arrangements beyond administrative engagement, and including subnational commitments. In implementing this commitment, information commissioners could involve civil society and the general public in the design, conduct, and analysis of the survey, and generate interest in open government initiatives among civil society groups operating at subnational levels.

¹ Association of Information Access Commissioners, "Compendium of Information Access Laws across Australian States and Territories" (9 Oct. 2017), [https://www.ipc.nsw.gov.au/sites/default/files/file_manager/Jurisdictional Compendium OCT 2017.pdf](https://www.ipc.nsw.gov.au/sites/default/files/file_manager/Jurisdictional%20Compendium%20OCT%2017.pdf). Note that the *Freedom of Information Act 2016* (ACT) came into effect in the ACT on 1 January 2018, establishing the role of the ACT Ombudsman in overseeing operation of that legislation.

6. Enhance public engagement skills in the public service

Commitment Text:

Develop and implement an Open Dialogue Roadmap: Australia will co-chair and take a leading role in the development of an Open Dialogue Roadmap, through OGP International's Deliberative Processes Practice Group. The Roadmap will consist of a briefing booklet making the argument for deliberation and a how to guide. It will assist public servants to design and implement open and deliberative engagement processes.

The Establishment of an APS Engagement Hub: The Hub would be, in the first instance, a digital space. It will ensure the initiatives under the first Action Plan's Commitment 15.2 framework are delivered. It will tie together elements of the framework and create a landing point for guidance, advice and support. It will be iterated over time and has the potential to integrate engagement efforts across the APS.

Over time the Hub could act as a platform for general interaction between civil society and the APS. User research will be undertaken to inform the design of this element of the Hub, with findings reported to the Open Government Forum.

Milestones:

- 6.1 Establish the Engagement Hub
- 6.2 User research on design of the Hub
- 6.3 Publicly release Open Dialogue and Deliberation Booklet
- 6.4 Publicly release the Practical How to Guide
- 6.5 Test and report back publicly on the Open Dialogue Roadmap

Start Date: September 2018

End Date: August 2020

Editorial Note: This is a partial version of the commitment text. For the full commitment text, see the Australia National Action Plan available at https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| 6. Overall | | ✓ | ✓ | ✓ | | ✓ | | | ✓ | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

Commitment 15 of NAPI examined and improved public participation across the federal government as there was no existing consistent approach to public consultations among federal agencies. In implementing the commitment, the Department of Industry, Innovation and Science designed a virtual hub for federal government officers to access resources on public participation, and act as a platform between the Australian Public Service (APS) and civil society. Establishing that hub is the subject of this current commitment.

A description of the APS Engagement Hub is provided in the Department of Industry, Innovation and Science's 2018 *Prototype Report: Unlocking community expertise to improve policy, programme and service delivery*.¹ It describes the hub as a team of people from across member agencies who would provide general guidance to agencies on community engagement and technical support. The hub would involve a digital platform connecting members within the APS, as well as the APS with civil society.

The hub would maintain virtual resources like a toolkit and case studies and promote APS metrics on engagement efforts. Federal public servants could share information on engagement projects, and citizen juries may also be established.² However, this commitment refers specifically to establishing a digital space to tie together elements of the framework for improving public participation and for providing a channel for guidance, advice and support. This commitment has the potential to integrate future engagement efforts across the federal public service.

This commitment also seeks to position Australia as a leader in developing an Open Dialogue Roadmap as part of OGP's International Deliberative Process Practice Group. This roadmap will complement the work done on public participation generally by seeking to produce a practical how-to guide to raise awareness and capability within the federal public service on using open dialogue and deliberative processes. In particular, it seeks to raise awareness on using a purposeful and systematic exchange of ideas and information, focusing on responding to particular questions or issues.

Overall, this commitment is verifiable. A publicly available, digital hub can be accessed and assessed. The public release of information on user research, booklets, guides, and testing reports is also verifiable.

As the hub will publish government information on public engagement, practices, and projects, this commitment is relevant to the OGP value of access to information. Publishing the Roadmap and publicly reporting any testing that is done on the Open Dialogue Roadmap, will also provide citizens access to government information. Using user-research to design the hub enables citizen involvement, thus making this commitment relevant to the OGP value of civic participation. Finally, as the hub is a digital platform enabling interaction between federal public servants and potentially civil society, the commitment is relevant to the value of technology and innovation for transparency.

The potential impact of this commitment on enhancing public engagement in the public service and facilitating access to information is moderate. The Open Dialogue Roadmap and the APS Engagement Hub can overcome current limitations on using open dialogue and deliberative processes within the Commonwealth public sector, and facilitate public engagement in policy development and service delivery. However, the commitment is limited in scope as it lacks an enforcement mechanism, or processes of monitoring, and evaluation to ensure that the full potential of the roadmap and hub are realised.

Next Steps

This commitment continues the work of Commitment 15 of NAPI to increase the awareness and the capacity of federal public servants to engage with the public. The frameworks, if sufficiently resourced and incorporated into government practices, could significantly enhance public engagement. Using extensive involvement of civil society organisations, this commitment can be a model for future participatory practices within government, especially for other OGP commitments.

It is therefore recommended that future commitments in this area evaluate the commitment's impact on changing government practice and develop proposals to better ensure the federal public service's adoption of public engagement. The government could also consider how the hub might facilitate the role of the Open Government Forum and support the coordination and evaluation of open government proposals.

¹ Dept. of Industry, Innovation and Science, *Prototype Report: Unlocking Community Expertise to Improve Policy, Programme and Service Delivery* (2018), https://www.industry.gov.au/sites/default/files/open_government_partnership_commitment_5.2_prototype_report.pdf.

² *Id.* at 46–47.

7. Engage Australians in the Independent Review of the Australian Public Service

Commitment Text:

The government has established an independent review to ensure the APS is fit-for-purpose for the coming decades. The review will examine the capability, culture and operating model of the APS and identify an ambitious program of transformational reforms.

The independent panel leading the review will consult widely, both within and outside the APS.

The panel will ensure their work is undertaken in an open and transparent manner, in collaboration with the APS and its stakeholders.

To do this, the panel will:

- encourage wide participation both within and outside the APS, and input to deliberations throughout the life of the review (including through more dynamic engagement mechanisms such as online polls);
- utilise appropriate technologies, such as artificial intelligence and natural language processing capabilities to support timely development of insights and analysis; and
- test ideas (both face-to-face and online) in an open and iterative manner.

Milestones:

- 7.1 Open and ongoing consultation through face-to-face and online mechanisms which, where permissible, will be published
- 7.2 Report delivered to government

Start Date: September 2018

End Date: August 2020

Editorial Note: This is a partial version of the commitment text. For the full commitment text, see the Australia National Action Plan available at https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| 7. Overall | | ✓ | | ✓ | | ✓ | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

The Innovation and Science Council, established in 2015 as part of the government's National Innovation and Science Agenda,¹ produced a strategic plan for Australia's innovation, science, and research system. That plan, *Australia 2030: Prosperity through Innovation*,² identified the need for the public sector to work more flexibly across industries and to significantly improve its policy and service delivery, including using digital technology. The plan recommended the federal government review the Australian Public Service (APS) to enable it to play a greater role in innovative policy development, implementation, and service delivery.³

In response,⁴ the federal government established a process to independently review the APS' capability, culture, operating model, performance evaluations, and governing legislation, particularly noting "how it ensures the transparent and most effective use of taxpayers' money in delivering

outcomes.”⁵ According to the terms reference, the review panel would “consult widely, both within and outside the APS, including ... a reference group of eminent individuals with a diverse range of domestic and international, public and private sector expertise.”⁶

Noting that the inclusion of this commitment in the action plan pre-dates completion of the APS review, this commitment aimed to encourage wide public participation in the APS review and the testing of ideas in an open and inclusive manner. It is therefore relevant to the OGP value of civic participation. The commitment also provided for the use of technology and innovation in facilitating such participation, including the use of artificial intelligence and natural language processing capabilities to support timely development of insights and analysis.

This commitment, as written, is generally verifiable. While any report delivered to the government will not be completely verifiable until it is released publicly, the use of public consultations to inform the review is verifiable. However, beyond online polls, the commitment does not outline specific mechanisms for citizen engagement, which contributes to a lack of specificity.

If fully implemented as written, this commitment stood to have minor potential impact on the success of the APS Review through greater citizen engagement. The IRM notes, for instance, that opportunities for citizen participation in the APS Review were available prior to this commitment; the review called for submissions between 4 June 2018⁷ and 31 July 2018.⁸ A group of national and international experts with diverse public- and private-sector experience was appointed on 12 July 2018.⁹ This suggests that the introduction of this commitment was unlikely to significantly change existing practice. Although developments pertaining to the implementation of this commitment—i.e. during the APS review process—are beyond the purview of the IRM’s design report, the IRM recognizes that workshops for APS and members of the public, along with other opportunities for participation, took place throughout the review.¹⁰

The broad terms of reference governing the APS review meant that the review panel could receive submissions from across the functions and services of the APS. Given the diverse issues that were expected to arise through such a process, the influence of individual submissions is contingent on the conduct of the review and how specific issues are identified and tested. The impact of public participation on the review, at the time the commitment was included in the action plan, is therefore uncertain.

The broad scope of the APS review, and the wide range of issues under consideration, was expected to invite a large number of submissions. The success of the review in attracting submissions from a large number of persons, representing a variety of perspectives, along with evidence of effectively responding to such participation, may encourage future use of the participatory methods employed, including the use of technology.

Next Steps

The review itself was anticipated to include recommendations for implementing structural and other reforms. Going forward, due consideration should be given to monitoring and evaluation of any reforms arising from the review, including through the ongoing participation of relevant stakeholders outside of government. The government could also reflect on the success of the process of the review, particularly the impact of engagement strategies, and the technology used for developing insights and analysis.

It is also unclear how the review will impact other open government reforms. A review of federally held information-access laws, policies, and practices was part of Commitment 8 in NAPI. That commitment followed several government-commissioned reviews on information-handling by the Australian Public Service, as informed by contributions from government, business, and civil society.¹¹ In the following Progress Report, the IRM noted:

The need for a comprehensive review into information management and access to government information laws and practice has been widely recognised. However, given the potentially broad scope and complexity of the issues that have or might arise

in any such review, a more detailed and specific program for consultation should be developed and made public, and include the identification of available resources and relationship with other OGP commitments.¹²

Similarly, Commitment 15 of the first national action plan, and Commitment 6 in this national action plan, provided a framework to improve public engagement by the federal APS. While the terms of reference for the APS review refers to the need for public engagement during its review, and briefly references the need for transparency in the use of taxpayers' money, it does not specifically reference OGP values in reforming public service. Therefore, it is uncertain whether the APS review will impact open governance reforms.

¹ Dept. of Industry, Science, Energy and Resources, "National Innovation and Science Agenda Report" (Nov. 2015), <https://www.industry.gov.au/data-and-publications/national-innovation-and-science-agenda-report>.

² Dept. of Industry, Science, Energy and Resources, "Australia 2030: Prosperity through Innovation" (Nov. 2017), <https://www.industry.gov.au/data-and-publications/australia-2030-prosperity-through-innovation>.

³ *Id.* at 72–73.

⁴ Dept. of Industry, Science, Energy and Resources, "Government Response to Innovation and Science Australia's 'Australia 2030: Prosperity through Innovation' Report" (May 2018), <https://www.industry.gov.au/data-and-publications/government-response-to-innovation-and-science-australias-australia-2030-prosperity-through-innovation-report>.

⁵ Dept. of the Prime Minister and Cabinet, "Media Release: Review of the Australian Public Service" (4 May 2018), <https://pmtranscripts.pmc.gov.au/release/transcript-41613>; Independent Review of the APS, "About: Terms of Reference" (accessed Jun. 2020), <https://www.apsreview.gov.au/about>.

⁶ Independent Review of the APS, "About: Terms of Reference."

⁷ Dept. of the Prime Minister and Cabinet, "Public Submissions Open for the Independent Review of the Australian Public Service" (4 Jun. 2018), <https://ministers.pmc.gov.au/odwyer/2018/public-submissions-open-independent-review-australian-public-service>.

⁸ David Thodey, "More Time for Submissions" (Independent Review of the APS, 11 Jul. 2018), <https://www.apsreview.gov.au/news/more-time-submissions>.

⁹ Dept. of the Prime Minister and Cabinet, "Panel Reference Group to aid Independent Review of the APS" (12 Jul. 2018), <https://ministers.pmc.gov.au/odwyer/2018/panel-reference-group-aid-independent-review-aps>.

¹⁰ Independent Review of the APS, "The Conversation Continues" (Aug. 2018), <https://www.apsreview.gov.au/news/conversation-continues>.

¹¹ Attorney-General's Dept., "Review of Freedom of Information laws: Consultation" (1 Jul. 2013), <https://www.ag.gov.au/Consultations/Pages/ReviewofFOI.aspx>; Dept. of Finance, "Independent Review of Whole-of-Government Internal Regulation (Belcher Red Tape Review)" (2015), available at <https://webarchive.nla.gov.au/awa/20160615124041/http://www.finance.gov.au/publications/reducingredtape/>; Peter Shergold, "Learning from Failure: why large government policy initiatives have gone so badly wrong in the past and how the chances of success in the future can be improved" (Australian Public Service Commission, 12 Aug. 2015), <http://www.apsc.gov.au/publications-and-media/current-publications/learning-from-failure>.

¹² Daniel Stewart, *Independent Reporting Mechanism (IRM): Australia Progress Report 2016–2018* (Open Government Partnership, 2018), 66, https://www.opengovpartnership.org/wp-content/uploads/2018/05/Australia_Mid-Term_Report_2016-2018.pdf.

8. Expand open contracting and due diligence in procurement

Commitment Text:

Australia will progress the publication of existing federal government procurement data using the Open Contracting Data Standard schema to publish an additional AusTender dataset on data.gov.au.

We will then assess the use and value of that data for relevant purposes and to relevant user groups including government, business and civil society.

Additionally, Australia will review existing procurement due diligence processes, report on the outcomes of the review, and consider opportunities to further support the Open Government Partnership values of transparency and accountability.

Milestones

- 8.1 Publish additional OCDS-compliant dataset on data.gov.au
- 8.2 Engage with stakeholders in government, business and civil society to promote the publication of additional dataset
- 8.3 Review existing due diligence processes of relevant Commonwealth entities and publish outcome of review
- 8.4 Review use and value of OCDS-compliant dataset
- 8.5 Implement additional measures (if required)

Start Date: September 2018

End Date: August 2020

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| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| 8. Overall | | ✓ | ✓ | | | | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

The Open Contracting Data Standard (OCDS) is used in over 19 countries and subnational governments for publishing information on government procurement. It outlines three elements: what information about the government procurement process should be published; when this information should be released during the procurement cycle; and the format and structure of the published information. Adopting the standard may enable greater transparency in public contracting so that stakeholders might assess the efficiency, effectiveness, fairness, and integrity of public contracting systems.¹

The Department of Finance engaged a private contractor to review the federal government's compliance with the OCDS as part of Commitment 13 in NAPI.² That review found that the AusTender system, the current platform used to publish federal government procurement information, met only approximately one-third of the data-field requirements. The AusTender system also did not meet either the timing or format requirements.³ In response, the Department of Finance indicated that it would increase compliance with the OCDS by making the existing

procurement information available in an OCDS-compliant format.⁴ They would also seek to improve compliance in future amendments to the procurement framework and AusTender system.

This commitment is generally verifiable. The publishing of federal government procurement information on data.gov.au in an OCDS-compliant format will be publicly accessible and is therefore verifiable. However, the precise nature and scope of stakeholder engagement are not set out in the commitment. Similarly, the reviews of existing due diligence processes, and of the use and value of the dataset, may not be made public or otherwise verifiable. The nature of any additional measures is uncertain given the commitment does not clarify how additional measures will be identified and when implementation will be required.

This commitment is relevant to the OGP value of access to information as it seeks to improve government-held information by making procurement information on the data.gov.au website OCDS-compliant. It will then evaluate the use and value of that data to relevant user groups and review existing procurement due diligence processes. The commitment does not, however, extend to publishing additional types of federal procurement data.

The commitment aims to engage stakeholders outside the government to promote the availability of existing procurement data in the OCDS-compliant format. However, the nature of such engagement is unclear, and there is no indication that such engagement will allow citizens to participate in, or influence, a decision-making process. The terms of the commitment also do not include any engagement outside of government in the review of the use and value of that dataset, or the review of existing due diligence procedures. This commitment thus falls short of being relevant to the value of civic participation.

Any additional public-facing measures that stem from this commitment may result in additional due diligence requirements and hence be relevant to government accountability. It is unclear whether the review of the use and value of the OCDS-compliant dataset with stakeholders will lead to the collection and publication of information not currently included in that dataset.

If fully implemented as written, commitment stands to have minor potential impact on ensuring that government procurement data is compliant with OCDS standards, thus improving trust in government and combatting corruption. The publication of existing procurement information in an OCDS-compliant format may lead to greater public access and analysis. However, the commitment does not provide for additional information to be released and may not involve public participation in future development of the public procurement framework.

Next Steps

Transparent government procurement is important in maintaining trust in government, increasing accountability, and combatting corruption. Compliance with the OCDS enables monitoring of government procurement processes by a variety of stakeholders outside the government. It also enables users to join together information and both analyse and share that data.⁵

In the progress report of the first national action plan, the IRM recommended a comprehensive review of the costs and benefits associated with further implementation of the OCDS. Reiterating this recommendation in this report, this review should include a collaborative consultation with civil society and an evaluation of the uses of currently available information. While the commitment will review the uses and value of providing existing information in an OCDS format, it does not expressly expand the information collected and published so as to more fully comply with all elements of the OCDS. The IRM therefore recommends that future action plans leverage a collaborative approach to extending compliance with the OCDS, including greater disclosure, involving both government and nongovernment stakeholders.

⁴ Open Contracting Partnership, “Getting Started” in *Open Contracting Data Standard* (accessed Jun. 2020), http://standard.open-contracting.org/latest/en/getting_started/.

² Dept. of Finance, “Review of AusTender Data against the Open Contracting Data Standard” (Jul. 2017), <https://www.finance.gov.au/blog/2017/07/20-Open-Government-Contracting-Data/>.

³ Daniel Stewart, *Independent Reporting Mechanism (IRM): Australia End-of-Term Report 2016–2018* (Open Government Partnership, 2018), 55–56, https://www.opengovpartnership.org/wp-content/uploads/2020/04/Australia_End-of-Term_Report_2016-2018.pdf.

⁴ Dept. of Finance, “Completion of Commitment 4.3 of the Open Government National Action Plan – Open Contracting” (May 2018), <https://www.finance.gov.au/about-us/news/2018/completion-commitment-43-open-government-national-action-plan-open-contracting>.

⁵ Open Contracting Partnership, *The Open Contracting Data Standard* (accessed Jun. 2020), <https://www.open-contracting.org/data-standard/>.

V. General Recommendations

This section aims to inform development of the next action plan and guide implementation of the current action plan. It is divided into two sections: 1) IRM key recommendations to improve OGP process and action plans in the country or entity and, 2) an assessment of how the government responded to previous IRM key recommendations.

5.1 IRM Recommendations

Build on previous and existing commitments, including enhancing information transparency and strengthening the federal anticorruption framework.

NAP2 includes a statement that the Australian government will continue to implement incomplete commitments from the first national action plan, and continue to publish progress by Australia's Open Government Forum via the OGP Australia website until those commitments are concluded.¹ The OGP Forum website, maintained by Department of the Prime Minister and Cabinet (PMC), includes a dashboard with current statuses of the commitments from the first national action plan. A number of commitments under that first national action plan remain incomplete, including reform to the national anticorruption framework, lobbying, and campaign financing.

In assessing the design of NAP2 commitments, some new commitments, expressly or impliedly, subsume or further develop commitments from the first national action plan. However, the relationship of other NAPI commitments with NAP2, or their current status, is uncertain.

For example, NAP2 includes a commitment to “engage Australians in the independent review of the Australian Public Service.” As discussed above, it is unclear whether this will result in recommendations on information management and, if it does, whether they will be consistent with open government values. The relationship between this commitment and Commitment 3.1 of NAPI (reforming information management and access laws) is therefore unclear, making it difficult to assess progress on one of the key recommendations of the progress report on NAPI.

Future action plans could provide an opportunity for stakeholders to reflect on previous commitments, evaluate how they can improve implementation, and reconsider their ongoing importance. Ongoing commitments may therefore be clearly identified and recommitted to as part of any national action plan, with the remaining milestones adjusted to reflect completion within the next action plan cycle or incorporated within other commitments. The development of subsequent action plans could also engage stakeholders, especially those involved in or affected by previous commitments, on the importance of completing existing commitments.

Develop a whole-of-government approach in monitoring and evaluating commitment implementation.

In support of Australia's whole-of-government approach to enhance awareness and support for open governance, the progress report on NAPI recommended that future action plans include monitoring of the impact of implemented commitments. While the Open Government Forum has an important role in monitoring and reporting on implementation of commitments, each commitment's broader impact, including beyond the action plan cycle, could also be evaluated. Australia's first Open Government Forum meeting in July 2017² sets out guidance to agencies on how monitoring and implementation can be carried out.³ This guidance, conceived in alignment with a whole-of-government approach, should be

prominently published on the OGP Forum and PMC websites, and agencies encouraged to refer to them.

The whole-of-government approach to evaluation has been adopted outside of the open government context. For example, in the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse, the Commission recommended that the Australian, state, and territory governments, and major institutions involved in child-related work, annually report for five years on the implementation of the Commission's other recommendations.⁴ It also provided for a review after ten years on the implementation and effectiveness of the measures taken, and what further steps are needed in relation to child sexual abuse in institutional contexts. Links to these reports are available on the Australian government's response to the Royal Commission website.⁵ The Royal Commission reported that monitoring progress toward implementation is vital in supporting real progress and holding government and institutions accountable.

Monitoring and evaluation are important when considering any re-commitment to prior commitments, informing further development of reforms, and conceptualizing new commitments. It is therefore recommended that all commitments monitor and evaluate their implementation. Any commitments that continue work from a prior plan should evaluate the impact of those reforms, and report how that evaluation contributed, if at all, to further reform proposals. The development and conduct of these evaluations should be consistent with the values of open government.

Enhance the relevance of commitments to core OGP values and facilitate stronger adherence to these values throughout related processes.

The IRM Procedures Manual⁶ outlines examples of what can constitute clear relevance to the core OGP values of access to information, civic participation, and public accountability.

Various commitments from both action plans have, for instance, provided for different forms of consultations without directly providing for the results of that consultation to be made public. For example, Commitment 8 of NAP1 sought to develop a simpler and more coherent framework for information management within government. The milestones included a recommendation to inform the government through consultations and implement any government decisions. As the final IRM report on NAP1 indicates, any recommendations made to the government in complying with that commitment were not made public, and no government decision on reforming information access laws, policies, and practices has been made. Commitments 1, 3, and 8 of NAP2 similarly do not include a commitment to making the results of any consultation public.

Consultations will benefit from being made consistent with OGP values and the principles of open government. For instance, the participants of a consultation could be clearly specified, with ensuing submissions being publicly accessible. Feedback on the consultation process should be provided in a timely manner, and any recommendations made, or further action taken as a result of the consultation process, should be published. Publishing recommendations to the government when they are submitted would provide access to information about the outcome of a consultation, encourage wider public participation in consultations, and potentially encourage government accountability through their timely responses.

None of the commitments in NAP2 are clearly relevant to the value of public accountability. Monitoring and evaluation of completed reforms should develop verifiable standards against which reforms can be publicly assessed, clearly indicate parties responsible for the success or failure of the reforms, and the provision for publishing any justification of the results.

As outlined in IRM reporting on NAPI, commitments relevant to public accountability might also include reforms of existing accountability institutions, including improving the timeliness of reviewing access to information requests, creating new integrity bodies, or enhancing the scope and independence of existing bodies such as the Commonwealth Ombudsman and National Audit Office.

Commitments 6 and 7 of NAP2 provide examples of using technology to enhance the consultation process. Technology and innovative approaches to transparency and accountability could also be used to enhance the impact of existing commitments. This may include facilitating timelier disclosure of political donations and expenditures, transparent political lobbying, and parliamentary entitlements.

Commitments in NAPI and NAP2 relating to access to information on government expenditures, such as contracting, procurement, and government grants, could include timely access to information to facilitate public accountability. This information could include the identity and lawful authority of the decision-maker, disclosures of potential conflicts of interest, the basis of decisions including assessment against public criteria, and evaluation of the performance of contracts and grants.

Establish a collaborative forum to safeguard the quality and raise the ambition of commitments.

In the IRM progress report on NAPI, the IRM recommended a whole-of-government approach to enhance awareness and support for open government initiatives. One element of that approach is greater involvement by ministerial and high-level officials in promoting development and implementation of national action plans. This may increase the diversity of views and subject matter included in consultations and thus raise the quality and ambition of commitments. While an increased range of views beyond the government was solicited in developing NAP2, raising awareness of the OGP process remains vital in ensuring the value and diversity of commitments.

Whole-of-government involvement in the OGP process may also be increased by requiring consistency with open government values in any significant reform proposal, such as within the Regulatory Impact Analysis process.⁷ Key government agencies could also be required to report annually on the consistency of any significant initiatives with open government values. Those reports could then be used by the Open Government Forum in monitoring open government initiatives generally and developing future action plans.

In addition, it is important to increase the quality and level of ambition in the commitments. Many of the commitments in both NAPI and NAP2 are relevant to open government values only through broad public consultations (see recommendation above), with no commitment to transform government practice or significantly address the underlying issue. Civil society and citizens generally may be more willing to engage with open government initiatives if there was a clear willingness by the government to commit to those initiatives and change government practices.

For example, future commitments could include collaborative forums of consultation that directly involve stakeholders outside of the government in setting the reform agenda. Commitments could include milestones relating to the implementation of at least some of the recommendations that come out of such a process. Such collaborative forums, in the spirit of promoting civic participation, could also be used to monitor and evaluate the impact of commitments and put forward proposals for future commitments—thus participating in the decision-making processes.

Expand the thematic coverage of future action plans by including commitments on new policy areas.

As identified in Section II, several themes that are both relevant to open governance and can increase public trust in the government, can be considered in the next national action plan. These include:

- **Regulating the potential impact of artificial intelligence (AI) in government decision-making**

Using AI in government is the subject of the Australian Human Rights Commission's project on human rights and technology, launched in July 2018⁸ with consultations planned into 2021. The Department of Industry, Innovation and Science, in conjunction with the Commonwealth Scientific and Industrial Research Organisation's (CSIRO) Data61, have recently released their voluntary AI Ethics Framework after consultations and are currently piloting the approach across a small number of organisations.⁹ The AI Ethics Framework follows Australia's endorsement of the OECD's Principles of AI in May 2019.¹⁰

Developing regulation for using artificial intelligence in government will involve a number of important aspects of open government. The need to understand the range of issues involved and engage with numerous stakeholders, including the general public, make this issue suitable for an action plan commitment. The IRM recommends that a process of collaboration be developed to consider the role and regulation of artificial intelligence in government with a view to making public recommendations that would apply across the Commonwealth government.

- **Voice to Parliament**

As discussed above, the *Uluru Statement from the Heart* called for establishing an indigenous voice in Parliament. The Indigenous Affairs Minister has recently announced the establishment of a co-design process.¹¹ This is an important commitment for the next action plan. It will enhance representation of underserved indigenous populations, increase transparency in indigenous affairs at all levels of the government, and raise ambition by using a broad co-design process for proposals which will then be subject to further consultation and testing.

- **Whistleblowing protection and national security, including open courts**

There are two ongoing parliamentary inquiries considering the impact of secrecy laws on press freedom.¹² These inquiries relate to the broader issue of public interest disclosures and the protection of whistleblowers, as discussed in Section II of this report. A 2016 inquiry into the *Public Interest Disclosure Act 2013* (Cth) recommended substantial clarifications of and amendments to that legislation, including existing secrecy offences, national security information, and the adoption of a principles-based approach to regulation.¹³ A recent court decision suggested that the legislation was "technical, obtuse and intractable."¹⁴

The Commonwealth Attorney-General has suggested that the legislation may be reformed.¹⁵ The importance of public-sector whistleblowing disclosures for government accountability and access to government information, and the difficulty of balancing competing public and private interests, make this legislative reform important for open government in Australia. A collaborative approach to reform in this area could be included in the next action plan.

Table 5.1: Five Key Recommendations

| | |
|---|---|
| 1 | Build on previous and existing commitments, including enhancing information transparency and strengthening the federal anti-corruption framework. |
| 2 | Develop a whole-of-government approach in monitoring and evaluating commitment implementation. |
| 3 | Enhance the relevance of commitments to core OGP values and facilitate stronger adherence to these values throughout related processes. |
| 4 | Establish a collaborative forum to safeguard the quality and raise the ambition of commitments. |
| 5 | Expand the thematic coverage of future action plans by including commitments on new policy areas. |

5.2 Response to Previous IRM Key Recommendations

The government referred to all of the key recommendations in the second national action plan and described them as having been considered in designing the process for developing the plan and the resulting commitments. Only two were expressly integrated into NAP2. The development of NAP2 engaged an extended range of stakeholders. However, as discussed in Section II above, the government could continue to actively expand the range of contributing stakeholders. Open government initiatives at state and territory levels were incorporated into Commitment 5 (understanding information access) and Commitment 4 (using place-based approaches to improve public services). However, both provide only a limited role for the OGP Forum.

Table 6: Previous IRM Report Key Recommendations

| Recommendation | | Responded to? | Integrated into Current Action Plan? |
|----------------|---|---------------|--------------------------------------|
| 1 | Broaden the range of stakeholders and interests reflected in the open government process at the Commonwealth level | ✓ | ✓ |
| 2 | Develop a whole-of-government approach to enhancing awareness and support for open government initiatives, including by monitoring, evaluating and publicising their impact | ✓ | ✗ |
| 3 | Establish a collaborative multi-stakeholder forum to work on establishing a federal anti-corruption agency and lobbying and political donation reform initiatives | ✓ | ✗ |
| 4 | Detail a comprehensive process for reform of information management and access practices within Commonwealth government agencies | ✓ | ✗ |
| 5 | Expand the role of the Open Government Forum to include consideration of open government initiatives at the state and territory level | ✓ | ✓ |

While the second national action plan includes a commitment to strengthen the national anticorruption framework (Commitment 1), this falls short of establishing a new anticorruption agency. Similarly, there is a commitment to enhance the transparency of

political donations and funding (Commitment 2), but this does not expressly address lobbying reform.

The NAP2 also does not directly address a whole-of-government approach to evaluating and publicizing the impact of open government initiatives. However, the commitments do include attempting to better understand the awareness, experience, and outcomes of using information access laws (Commitment 5) and enhancing public engagement skills in the public service (Commitment 6).

One of the roles of the new National Data Commissioner and National Data Advisory Council in improving the sharing, use, and reuse of public data (Commitment 3) will be to promote, monitor, and improve data-sharing across Commonwealth agencies. Commitment 8 reviews the use and value of the Open Contracting Data Standard compliant dataset introduced under Commitment 4.3 of NAPI.

¹ Commonwealth of Australia, *Australia OGP National Action Plan 2018–2020*, (2018), 6, https://www.opengovpartnership.org/wp-content/uploads/2018/09/Australia_Action-Plan_2018-2020.pdf.

² Department of the Prime Minister and Cabinet, Open Government Forum Meeting – 28 July 2017”, (Open Government Partnership Australia), <https://ogpau.pmc.gov.au/open-government-forum/meetings/open-government-forum-meeting-28-july-2017>

³ *Id.* See: Item 4A -Guidance on Implementing Commitments, <https://ogpau.pmc.gov.au/open-government-forum/meetings/open-government-forum-meeting-28-july-2017>

⁴ Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report Recommendations* (2017), 61–62, https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_recommendations.pdf.

⁵ Australian Government Response to the Royal Commission into Institutional Responses to Child Sexual Abuse, “Annual Progress Reporting” (accessed Jun. 2020), <https://www.childabuseroyalcommissionresponse.gov.au/annual-progress-reporting>.

⁶ Open Government Partnership, *IRM Procedures Manual* (16 Sept. 2017), 47–48, <https://www.opengovpartnership.org/documents/irm-procedures-manual/>.

⁷ This analysis framework applies at both the Commonwealth and Council of Australian Government (including the involvement of state and territory governments). See <https://www.pmc.gov.au/regulation/guidance-policy-makers>.

⁸ See <https://tech.humanrights.gov.au/>.

⁹ Dept. of Industry, Innovation and Science, “AI Ethics Framework” (accessed Jun. 2020), <https://www.industry.gov.au/data-and-publications/building-australias-artificial-intelligence-capability/ai-ethics-framework>.

¹⁰ See <https://www.oecd.org/going-digital/ai/principles/>.

¹¹ Hon. Ken Wyatt (Minister for Indigenous Australians), “A Voice for Indigenous Australians” (Dept. of the Prime Minister and Cabinet, 30 Oct. 2019), <https://ministers.pmc.gov.au/wyatt/2019/voice-indigenous-australians>.

¹² Senate Standing Committees on Environment and Communications, “Press Freedom” (Jul. 2019), https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/PressFreedom; Parliamentary Joint Committee on Intelligence and Security, “Inquiry into the impact of the exercise of law enforcement and intelligence powers on the freedom of the press” (Jul. 2019), https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/FreedomofthePress.

¹³ Phillip Moss, “Review of the Public Interest Disclosure Act 2013” (Dept. of the Prime Minister and Cabinet, Jul. 2016), <https://www.ag.gov.au/sites/default/files/2020-06/Moss%20Review.PDF>.

¹⁴ *Applicant ACD13/2019 v. Stefanic* FCA 548 (2019), 17.

¹⁵ Stephen Easton, “Attorney-general open to reforming ‘obtuse’ federal whistleblower protection law” (*The Mandarin*, Jun. 2019), <https://www.themandarin.com.au/110350-attorney-general-open-to-reforming-obtuse-federal-whistleblower-protection-law/>.

VI. Methodology and Sources

The IRM reports are written by researchers for each OGP-participating country or entity. All IRM reports undergo a process of quality control to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, observation, and feedback from nongovernmental stakeholders. The IRM report builds on the evidence available in Australia's OGP website,¹ findings in the government's own self-assessment reports, and any other assessments of process and progress put out by civil society, the private sector, or international organisations. At the beginning of each reporting cycle, IRM staff share a research plan with governments to open a seven-day period of comments or feedback regarding the proposed research approach.

Each IRM researcher carries out stakeholder interviews to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested parties or visit implementation sites. Some contexts require anonymity of interviewees and the IRM reserves the right to remove personal identifying information of these participants. Due to the necessary limitations of the method, the IRM strongly encourages commentary during the pre-publication review period of each report.

Each report undergoes a quality-control process that includes an internal review by IRM staff and the IRM's International Experts Panel (IEP). Each report also undergoes an external review where governments and civil society are invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.²

Interviews and stakeholder input

In compiling this report, the IRM researcher conducted interviews of the following individuals:

- Serena Lillywhite, Chief Executive Officer, Transparency International Australia (interview, 7 September 2018),
- James Horton, Founder and CEO, Datanomics (a data ethics and governance advisory business focused on data-sharing and member of the OGP Forum), (phone interview, 12 November 2018), and
- Sonya Sherman, Director of Industry Solutions (Public Sector), Objective Corporation (phone interview, 14 December 2018).

The IRM also attended workshops held by the Accountability Round Table to discuss development of national action plans, attended by representatives from various civil society and government organisations, academics, and other community members:

- Melbourne, 12 February 2020, and
- Brisbane, 25 February 2020.

Additionally, the IRM researcher also presented a webinar organised by the Grata Fund, attended by representatives from civil society organisations including Amnesty International, Greenpeace, and Human Rights Law Centre on 26 February 2020.

About the Independent Reporting Mechanism

The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries and entities. The International Experts Panel

(IEP) oversees the quality control of each report. The IEP is comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts Panel is

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Juanita Olaya

A small staff based in Washington, DC, shepherds reports through the IRM process in close coordination with the researchers. Questions and comments about this report can be directed to the staff at irm@opengovpartnership.org.

¹ Dept. of the Prime Minister and Cabinet, “Open Government Partnership Australia” (accessed Jun. 2020), <https://ogpau.pmc.gov.au/>.

² Open Government Partnership, *IRM Procedures Manual* (16 Sept. 2017), <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

Annex I. Overview of Australia's performance throughout action plan development

Key:

Green= Meets standard

Yellow= In progress (steps have been taken to meet this standard, but standard is not met)

Red= No evidence of action

Table 7: Multistakeholder Forum

| Multistakeholder Forum | |
|---|--------|
| 1a. Forum established: There is a forum to oversee the OGP process. | Green |
| 1b. Regularity: The forum meets at least every quarter, in person or remotely. | Green |
| 1c. Collaborative mandate development: Members of the forum jointly develop its remit, membership and governance structure. | Green |
| 1d. Mandate public: Information on the forum's remit, membership and governance structure is available on the OGP website/page. | Green |
| 2a. Multistakeholder: The forum includes both governmental and nongovernment representatives. | Green |
| 2b. Parity: The forum includes an even balance of governmental and nongovernmental representatives. | Green |
| 2c. Transparent selection: Nongovernmental members of the forum are selected through a fair and transparent process. | Green |
| 2d. High-level government representation: The forum includes high-level representatives with decision making authority from government. | Yellow |
| 3d. Openness: The forum accepts inputs and representation on the action plan process from any civil society or other stakeholders outside the forum. | Green |
| 3e. Remote participation: There are opportunities for remote participation in at least some meetings and events. | Green |
| 3f. Minutes: The OGP forum proactively communicates and reports back on its decisions, activities and results to wider government and civil society stakeholders. | Green |

Table 8: Action Plan Development

| Action Plan Development | |
|---|-------|
| 4a. Process transparency: There is a national OGP website (or OGP webpage on a government website) where information on all aspects of the national OGP process is proactively published. | Green |
| 4b. Documentation in advance: The forum shares information about OGP to stakeholders in advance to guarantee they are informed and prepared to participate in all stages of the process. | Green |
| 4c. Awareness-raising: The forum conducts outreach and awareness raising activities with relevant stakeholders to inform them of the OGP process. | Green |
| 4d. Communication channels: The government facilitates direct communication with stakeholders to respond to action plan process questions, particularly during times of intense OGP activity. | Green |
| 4e. Reasoned response: The multistakeholder forum publishes its reasoning behind decisions and responds to major categories of public comment. | Green |
| 5a. Repository: 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). | Green |

Editorial Note: If a country “meets” the six standards in bold IRM will recognise the country’s process as a Starred Process.