

Chapter 1

Budget Estimates 2017–18

Introduction

1.1 On 9 May 2017, the Senate referred the following to the Senate Environment and Communications Legislation Committee (the committee):

- Particulars of proposed expenditure in respect of the year ending on 30 June 2018 [Appropriation Bill (No. 1) 2017–18];
- Particulars of certain proposed expenditure in respect of the year ending on 30 June 2018 [Appropriation Bill (No. 2) 2017–18]; and
- Particulars of proposed expenditure in relation to the parliamentary departments in respect of the year ending on 30 June 2018 [Appropriation (Parliamentary Departments) Bill (No. 1) 2017–18].¹

1.2 A reporting date of 20 June 2017 was set for the 2017–18 Budget Estimates.²

1.3 On 19 June 2017, the Senate agreed to extend the tabling date to 21 July 2017 to allow the committee to complete its examination of the proposed expenditure and outcomes for the Communications and the Arts Portfolio.³ On 8 August 2017, the Senate granted a further extension of time to report until 13 September 2017.⁴ The reporting date was subsequently extended to 18 October 2017 on 11 September 2017.⁵

Portfolio coverage

1.4 The committee has responsibility for examining the expenditure and outcomes of the following:

- Environment and Energy Portfolio; and
- Communications and the Arts Portfolio.⁶

Hearings

1.5 The committee's examination of the Environment and Energy Portfolio took place on Monday, 22 May 2017 and Tuesday, 23 May 2017.

1 *Journals of the Senate*, No. 39, 9 May 2017, p. 1311.

2 *Journals of the Senate*, No. 13, 8 November 2016, p. 412.

3 *Journals of the Senate*, No. 45, 19 June 2017, p. 1472.

4 *Journals of the Senate*, No. 49, 8 August 2017, p. 1607.

5 *Journals of the Senate*, No. 60, 11 September 2017, p. 1932.

6 *Journals of the Senate*, No. 2, 31 August 2016, pp. 75–76.

1.6 The committee's examination of the Communications and the Arts Portfolio was held on Wednesday, 24 May 2017 and Thursday, 25 May 2017. Pursuant to Senate Procedural Order 9B, the committee held a further hearing on 15 June 2017 to continue its examination of the Department of Communications and the Arts Program 1.1: Digital Technologies and Communications and NBN Co Limited (NBN Co).

1.7 The committee scheduled a further hearing on 14 September 2017 to continue its examination of NBN Co. However, this hearing was cancelled due to members' Chamber commitments. The committee was unable to hold a further hearing and therefore concluded its examination of NBN Co.

1.8 The committee took evidence from Senator the Hon Simon Birmingham, Minister for Education and Training representing the Minister for the Environment and Energy; Senator the Hon Anne Ruston, Assistant Minister for Agriculture and Water Resources representing the Minister for the Environment and Energy; and Senator the Hon Mitch Fifield, Minister for Communications and Minister for the Arts, together with officers of the relevant departments and agencies. The committee thanks the Ministers, departmental secretaries and the officers who appeared before it.

1.9 The following agencies were not required to attend the Budget Estimates hearings:

Environment and Energy Portfolio

- National Wind Farm Commissioner; and
- Sydney Harbour Federation Trust;

Communications and the Arts Portfolio

- Creative Partnerships Australia;
- Australian Film, Television and Radio School;
- Australian National Maritime Museum;
- Bundanon Trust;
- Classification Board; and
- Classification Review Board.

Questions on notice and *Hansard* transcripts

1.10 The committee set Friday, 7 July 2017, as the date for the return of written answers or additional information for the hearings held on 22 to 25 May 2017. The committee agreed to set Friday, 28 July 2017, as the date for the return of answers to questions placed on notice for the hearing held on 15 June 2017.

Answers to questions on notice

1.11 An ongoing issue with estimates answers to questions on notice has been the timeliness of the provision of answers as well as the withholding of information on the

basis of commercial confidentiality. The following comments address these issues in relation to both the Additional Estimates 2016–17 and Budget Estimates 2017–18.

Timeliness of answers to questions on notice

Additional Estimates 2016–17

1.12 The committee's examination of the Environment and Energy Portfolio for the Additional Estimates 2016–17 took place on 27 February 2017. The committee set Friday, 28 April 2017 as the date for the return of answers to questions on notice. The committee received answers to 291 of the 333 questions on notice (including written questions) by the due date. The final answer was received on 18 May 2017.

1.13 The committee's examination of the Communications and the Arts Portfolio took place on 28 February 2017. The committee set Friday, 28 April 2017 as the date for the return of answers to questions on notice. The committee held a further hearing on 24 March 2017. The due date for answers to questions arising from this hearing was Monday, 1 May 2017.

1.14 The Communications and the Arts Portfolio provided 97 of the 295 answers to questions on notice from the hearing on 28 February 2017 by the due date. Of the 117 questions on notice arising from the committee's hearing on 24 March 2017, 44 answers were provided by the due date. In total, 127 answers were received during the committee's Budget Estimates hearings commencing on 22 May 2017.

1.15 At the Budget Estimates hearing on 24 May 2017, the committee noted that many answers from the Department of Communications and the Arts had been received the previous evening. These answers primarily related to NBN Co. It was noted that Labor senators would be requesting a spillover hearing to examine the late responses.⁷

1.16 The committee questioned the Secretary of the department, Dr Heather Smith, about the delays in providing answers. Dr Smith responded that:

I think it is fair to say that we have found it challenging having two estimates in a reasonably short period of time in terms of the spillovers, particularly in relation to NBN. We worked very closely with NBN to ensure timeliness, but I think in this instance in coordinating that it has been difficult and obviously unacceptable from the committee's point of view. So we will seek to double down on our efforts for next time.⁸

1.17 On 7 July 2017, the committee received correspondence from Dr Smith indicating that she had written to all portfolio agency heads reinforcing their obligations to provide timely advice to the committee and setting out the department's

7 Senator Anne Urquhart, *Proof Committee Hansard*, 24 May 2017, p. 3.

8 Dr Heather Smith, Secretary, Department of Communications and the Arts, *Proof Committee Hansard*, 24 May 2017, p. 4.

deadlines for responses to questions on notice. Dr Smith also indicated that discussions had taken place between departmental and agency staff on this issue. Dr Smith concluded that she was confident that there was a positive foundation in place 'to further enhance how the portfolio services the functions and requirements of the Committee'.⁹

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1.18 The committee notes the improved timeliness of the provision of answers to questions on notice from the Communications and the Arts Portfolio for Budget Estimates 2017–18. Of the 333 questions on notice from the hearings on 24 and 25 May 2017, answers for 307 questions were provided by the due date. Of the 84 questions arising from the hearing of 15 June 2017, four were provided by the due date. The final answer from this hearing was provided on 29 August 2017.

1.19 The committee commends the department and portfolio agencies for the improvement in timeliness in the provision of responses from the hearings on 24 and 25 May 2017. However, the lack of timeliness of answers for the hearing on 15 June 2017 was significant. The majority of these questions were directed to NBN Co.

1.20 The committee reiterates the need to ensure that answers are provided by the due date to allow members the opportunity to review answers before the next estimates hearings. The committee does not consider it is acceptable for answers to questions on notice to be provided the night before, or during, the next round of estimates hearings.

Claims of commercial confidentiality

Additional Estimates 2016–17

1.21 The committee has examined answers to questions on notice from Additional Estimates 2016–17 in relation to claims of commercial confidentiality. The committee notes that 15 answers from agencies within the Communications and the Arts Portfolio indicated that information was withheld because of commercial confidentiality or other reasons such as legal professional privilege. The Department of the Environment and Energy withheld information relating to one question on notice claiming confidentiality of legal advice.

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1.22 Information was also withheld in answers to questions on notice for Budget Estimates 2017–18. Information in five answers from the Environment and Energy Portfolio was withheld on the basis of commercial confidentiality. Information in

9 Dr Heather Smith, Secretary, Department of Communications and the Arts, correspondence to the committee, dated 7 July 2017.

15 answers from the Communications and the Arts Portfolio was withheld on the basis of commercial confidentiality or cabinet in confidence.

1.23 The committee notes that, generally, answers did not provide the basis of the claim including any commercial harm resulting from the disclosure of the information requested. The committee pursued this matter further in relation to two answers from NBN Co—Nos 298 and 359—relating to the costs of commissioned research and reports.

1.24 The committee wrote to NBN Co drawing to its attention the requirements of Procedural Order No. 10 relating to claims of public interest immunity and Procedural Order No. 11 relating to claims of commercial confidentiality. NBN Co's initial response did not meet the requirements of the orders and the committee wrote to NBN Co a second time. On 11 October 2017, the Minister for Communications, Senator the Hon Mitch Fifield, provided a statement of the specific harm to the company's commercial interest that would ensue from disclosure of the information sought.

Record of proceedings

1.25 This report does not attempt to analyse the evidence presented during the hearings. However, it does include a brief list of some of the key issues that were covered by the committee for each portfolio.

Note on references and additional information

1.26 References to the Hansard transcript are to the proof Hansard; page numbers may vary between the proof and official Hansard transcript.

1.27 The Hansard transcripts of the hearings, answers to questions on notice and information provided to the committee are tabled in the Senate and available on the committee's website at:

http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/ecctte/estimates/bud1516/index

