# CHAPTER 2

# BACKGROUND

2.1 Corporate responsibility is emerging as an issue of critical importance for Australia's mainstream business community. Until relatively recently it was a fringe notion, largely the domain of academic discourse, and which resulted in sporadic corporate reporting on environmental and social impacts. Over the past decade, however, it has developed into a practical mechanism for companies to assess and manage their non-financial risks and maximise their long-term financial value. It is also a bourgeoning driver of modern financial markets. The rapid trends towards globalisation of financial and labour markets, and several disastrous, large-scale corporate collapses have brought the issue to a new level of prominence.

2.2 This chapter provides a background to the discussion on corporate responsibility. It looks at:

- definitions and concepts in relation to corporate responsibility;
- historical context;
- the role of corporations in society; and
- the current state of play in Australia.

## Definitions and concepts

2.3 A number of submissions pointed to the fact that there is uncertainty about what corporate responsibility actually means. Mr Jeremy Cooper of the Australian Securities and Investments Commission (ASIC) outlined the definitional issues that arise in the area of corporate responsibility:

> [t]here are some very vexing terminology problems ... such as what a stakeholder is, what sustainability means, what triple bottom line reporting is and what we really mean by corporate social responsibility itself...[1]

2.4 This section of the chapter looks at definitions commonly put forward for the terms and concepts used in the debate on corporate responsibility.

### *Corporate responsibility and corporate social responsibility*

2.5 The Australian Stock Exchange (ASX) points out that the terms 'corporate responsibility', 'corporate social responsibility', and 'sustainability' are used interchangeably.[2] Similarly, Mr Turner submitted that:

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1 Mr Jeremy Cooper, Deputy Chairman, Australian Securities and Investments Commission, *Committee Hansard*, 29 March 2006, p. 11.

2 Australian Stock Exchange, *Submission 124*, p. 1.

> ...the terms 'corporate social responsibility', 'corporate social transparency', 'triple bottom line', 'corporate sustainability' and 'social and environmental responsibility' are all used to refer to the same concept.[3]

2.6 In the debate on corporate responsibility, the acronym for corporate social responsibility 'CSR' is frequently used. Another acronym used is 'CR', for corporate responsibility. A significant proportion of the evidence presented in this report uses these acronyms.

2.7 Corporate responsibility is usually described in terms of a company considering, managing and balancing the economic, social and environmental impacts of its activities. It is about companies assessing and managing risks, pursuing opportunities and creating corporate value, in areas beyond what would traditionally be regarded as a company's core business. It is also about companies taking an 'enlightened self-interest' approach to considering the legitimate interests of a company's stakeholders.

2.8 A submission from Monash University offered the following broad definition:

> CSR is acceptance by a corporation of responsibility for the social impact of its activities, including effects on the natural environment.[4]

2.9 The submission from the Treasury stated:

> Corporate social responsibility lacks a universally accepted definition. However, it can be described as a company's management of the economic, social and environmental impacts of its activities.[5]

2.10 The Business Council of Australia (BCA) submitted that corporate responsibility was more than merely corporate philanthropy.[6] The Treasury submission agreed with this view, pointing out that philanthropic initiatives could be financed by activities which are damaging to the communities in which business is conducted.[7]

2.11 The BCA noted the definitional problems around terms such as corporate responsibility, and commented that this lack of clarity can lead to considerable misunderstanding and controversy about what is meant by these terms. The BCA submitted that the essence of corporate responsibility was:

> Corporations operate within the community. For corporations to be sustainable and successful in the long term, they need to engage with the community and take account of community attitudes. Successful companies

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3 Mr Richard Turner, *Submission 5*, p. 5.

4 The Hon Dr Ken Coghill, Dr Leeora Black, Mr Dough Holmes, *Submission 71*, p. 4.

5 Department of the Treasury, *Submission 134*, p. 1.

6 Business Council of Australia, *Submission 108*, p. 6.

7 Department of the Treasury, *Submission 134*, p. 1.

> therefore factor into their forward strategies activities that manage the challenges and risks to the community and capture the opportunities that community engagement can bring. To be valid, these activities must deliver benefits both to the community and the shareholders of the corporation.[8]

2.12 Some submissions expressed concern over the use of the word 'responsibility'. For example, Habitat for Humanity Australia suggested that the use of the word 'responsibility' has connotations with corporate guilt, which it suggests has led to some difficulties in increasing corporate involvement in social activities and engagement.[9] The BCA also took issue with the word 'responsibility', arguing that it implied an obligation that had to be enforced:

> ...the use of the word 'responsibility', suggests that companies will not engage in CSR unless they are forced to. ... The risk in trying to develop a precise definition to CSR, particularly a narrow definition of CSR or what is meant by 'responsibility', is that the definition may inhibit companies from continuing to pursue innovative and creative activities that suit their own unique circumstances.[10]

2.13 ECOS Corporation echoed this view:

> Corporate Social Responsibility immediately implies obligation to do things that are against what business wants to do.[11]

2.14 Despite its shortcomings, the term 'corporate responsibility' will be used throughout this report. At times 'corporate responsibility' is used interchangeably with 'sustainability' and 'non-financial risk management'.

2.15 Recognising that corporate responsibility is a multi-faceted concept the committee makes no attempt to reach a conclusive definition. Because of the sheer diversity of modern corporations – in terms of size, sectors, stakeholders, structures and strategies – the concept of corporate responsibility can have a different meaning to different people and different organisations. However, there is a range of common elements. Chapters 3 and 6 also discuss a number of broad principles in relation to corporate responsibility.

### *Stakeholders*

2.16 Stakeholders are the groups and individuals that are impacted on by corporate activity, and that themselves can impact on corporate activity. Stakeholders include company shareholders, but also include some non-shareholder interest groups. Stakeholders commonly identified include employees, the community, and the

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8 Business Council of Australia, *Submission 108*, p. 3.

9 Habitat for Humanity Australia, *Submission 125*, p. 1.

10 Business Council of Australia, *Submission 108*, p. 10

11 ECOS Corporation, *Submission 51*, p. 2. *Submission* 82 from Beerworth and Partners agreed with this view (p. 2).

environment. A submission from the Key Centre for Ethics, Law, Justice & Governance at Griffith University indicated that there were at least two approaches to defining 'stakeholder':

> The term 'stakeholder' covers a wide array of interest holders depending on the definition used. It is important to recognise that the stakeholder definition used impacts on what is required of corporations to meet CSR demands. Early stakeholder theory focused on the managerial model of an entity and, as a result, narrowly defined 'stakeholder' as a group that impacts on the success of the organisation in terms of production outcomes and transactions. The broader definition of the stakeholder view of the firm includes those who may affect or be affected by the organisation – employees, customers, local community, management, owners and suppliers and so on.[12]

2.17 The BCA pointed out that different companies and different sectors had different stakeholders to consider:

> While some stakeholders, such as employees, will be common to all corporations, many others vary significantly. A mining company for example is likely to place a higher priority on environmental issues than an accounting firm.[13]

2.18 Evidence to the committee indicated that corporations often face situations where stakeholders have conflicting interests.

> It is important to be aware of such [conflicting interests] and resist the temptation to place all interest holders under the same banner without recognition of the different agendas each stakeholder or stakeholder group brings to the debate. Recognition of the competing interests serves to highlight the balancing task corporations have, regardless of the types of reform implemented when it comes to balancing financial interests of the company and its shareholders, and the interests of other stakeholders.[14]

### ***Corporate governance***

2.19 The terms corporate responsibility and corporate governance are sometimes confused with each other. Corporate governance refers to broader issues of company management practices. It concerns the conduct of the board of directors and the relationships between the board, management and shareholders. At the core of corporate governance is the transparency of major corporate decisions, and accountability to shareholders.[15]

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12 Key Centre for Ethics, Law, Justice & Governance at Griffith University, *Submission 80*, p. 3.

13 Business Council of Australia, *Submission 108*, p. 8.

14 Key Centre for Ethics, Law, Justice & Governance at Griffith University, *Submission 80*, p. 3.

15 Investment and Financial Services Association Ltd, *Blue Book: Corporate Governance: A guide for fund managers and corporations*, October 2004, p. 9.

2.20 Corporate responsibility is only one aspect of an organisation's governance and risk management processes.[16]

### *Sustainable responsible investment*

2.21 Sustainable Responsible Investment, or Socially Responsible Investment, is a term that was used in evidence to the committee. It is an approach to investment by institutional funds or individuals which places value on investments that minimise or do not have negative impacts on society and the environment. The Ethical Investment Association provides the following definition:

> Sustainable Responsible Investment (SRI) is the integration of personal values with investment decisions. It is an approach to investing that considers both the profit potential and the investment's impact on society and the environment.
>
> Sustainable Responsible Investment may avoid industries such as gaming, tobacco, armaments or uranium mining and companies with little regard for the environment, governance, and labour and human rights. On the other hand, SRI may also actively seek out profitable 'industries of the future' that are positive for society and the environment such as renewable energy, biotechnology, water management, waste management and health care.[17]

### *Sustainable development*

2.22 Some submitters to the inquiry referred to the concept of sustainable development. This concept was defined in 1987 by the World Commission on Environment and Development chaired by the Prime Minister of Norway, Mrs Gro Harlem Bruntland, which published a report *Our Common Future* (the Bruntland Report).[18] The report provided a definition of sustainable development as development:

> that meets the needs of the present without compromising the ability of future generations to meet their own needs.[19]

### *Sustainability reporting*

2.23 Sustainability reporting refers to reporting mechanisms used by organisations to disclose information on social, environmental, and economic performance. It facilitates reporting on achievements in sustainable development, and allows a degree of transparency to shareholders and other stakeholders of organisational performance and behaviour.

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16 KPMG, *Submission 53*, p. 2.

17 Website of the Ethical Investment Association, http://www.eia.org.au/, accessed 2 May 2006.

18 Website of the National Institute of Sustainability at Swinbourne University of Technology, Melbourne, at http://www.swinburne.edu.au/ncs/sustainability.htm, accessed 2 May 2006.

19 World Commission on Environment and Development, *Our Common Future*, Oxford University Press, Oxford, 1987, p. 43.

2.24 A recent report on sustainability reporting in Australia released by the Minister for the Environment and Heritage, Senator the Hon Ian Campbell described sustainability reporting as follows:

> Sustainability or non-financial reporting involves companies assessing their performance against environmental, social and economic criteria, how these results relate to the success of the business, and how potential impacts, opportunities and risks are addressed.[20]

2.25 The term 'triple bottom line reporting' is also used, referring to the three areas of performance: economic, environmental, and social. Chapter 6 of this report goes into some detail on sustainability reporting, the various reporting frameworks in existence, and the current status of sustainability reporting in Australia.

## Historical context

2.26 The origins of the concept of corporate responsibility can be tracked back as far as the first half of the twentieth century. PricewaterhouseCoopers recognised in its submission that '[t]he term 'corporate responsibility' has been extensively discussed for over 100 years in the 'business in society' literature.'[21] For example in the 1930s a famous public debate in the United States between Professors Berle and Dodd considered the relative merits of either side of the argument. The debate continued to develop throughout the middle of the twentieth century as the size and influence of corporations grew and the dominance of multinational corporation became apparent.

2.27 The first examples of what has become triple bottom line or sustainability reporting occurred during the 1970s. These reports, although groundbreaking in nature, were typically adjuncts to annual reports, focussed on single issues, and provided little useful information about the overall performance of a company.

2.28 The next phase of corporate responsibility reports occurred in the late 1980s and early 1990s. Organisations such as The Body Shop, Shell Canada and Ben and Jerry's released the first combined social/environmental reports. These reports were an important landmark, demonstrating the level of commitment of these corporations to report publicly on their non-financial performance. Since this time a strong trend has emerged towards integrated social-environmental-economic reports (also known as triple bottom line reports or sustainability reports). Sustainability reporting is discussed further in chapters 6 and 7.

2.29 As a global issue, corporate responsibility has grown significantly over the past decade, particularly since the turn of the century. In its discussion paper on

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20 Media release of the Minister for the Environment and Heritage, Senator the Hon Ian Campbell, 24 March 2006, 'The State of Sustainability Reporting in Australia 2005', at http://www.deh.gov.au/minister/env/2006/mr24mar06.html , accessed 3 May 2006.

21 PricewaterhouseCoopers, *Submission 110*, p. 11.

corporate social responsibility, the Corporations and Markets Advisory Committee quoted recent research which shows:

> Whereas 54% of executives in one global survey in 2000 said that this notion was 'central' or 'important' to their corporate decision-making, that figure had grown by 2005 to 88% of executives surveyed. Likewise, whereas 34% of professional investors in that same global survey in 2000 said that corporate social responsibility was 'central' or 'important' to their investment decisions, that figure had risen by 2005 to 81%. Also, it has been suggested that perceptions of corporate social responsibility being more in the nature of corporate public relations or marketing rhetoric than substance may be diminishing.[22]

2.30 This quote demonstrates the significant global rise of corporate responsibility as a factor in corporate decision-making and investment practices. Importantly, there also appears to be a global trend towards 'doing' rather than mere rhetoric. In the view of the committee this is an encouraging trend that with appropriate government support will continue.

## The role of corporations in society

2.31 The role of corporations in society was a matter for discussion during the inquiry. Is their function solely to make a profit, or do corporations have a wider responsibility to the society in which they operate and which allows them to exist? This section of the chapter looks at some of the background to this question.

2.32 Entities that structure collective commercial or community activity have long existed. Legal frameworks to regulate these entities have developed over centuries in response to increases in commercial activity, particularly since the rise of capitalism and the industrial revolution and the rise of large-scale organised interest groups. In particular, legal structures have evolved that place limits on the liability of investors, in order to attract investment. This principle of limited liability is discussed further below.

2.33 Australian corporate law owes much to the *Companies Act 1862* (UK) and its predecessor, the *Joint Stock Companies Act 1856* (UK), which allowed incorporation as of right (and with limited liability) through a simple registration process.[23] Schemes providing for the national regulation of companies in Australia have encountered a number of problems relating to the constitutional power of the Commonwealth Parliament but those now appear to have been finally settled with the referral by the States to the Commonwealth, in 2001, of the power necessary for such regulation.

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22 Corporations and Markets Advisory Committee, *Corporate Social Responsibility Discussion Paper*, November 2005, p. 1.

23 Mr Jerome Davidson and Ms Susan Dudley, *Introduction to the Corporations Act*, in Encyclopeadia of forms and precedents, Lexisnexis, 2005, p. 7.

2.34 Corporations have flourished in Australia and played a major role in the development of its economy. The stimulation of investment brought about by the corporate structure and the associated limited liability have enabled the effective exploitation of Australia's vast natural resources, as well as fostering the development of its general industries. As noted in Treasury's submission:

> Corporations, large and small, multinational and local, play a fundamental, multi-dimensional and evolving role in promoting economic growth and improving the living standards of all Australians.[24]

2.35 Many submissions to the inquiry highlighted the benefits of corporations. Australian companies generate considerable tax revenue for the Commonwealth, the states and territories. The Business Council of Australia submitted that as a percentage of GDP, the tax paid by Australian companies is well above the OECD average.[25] By contrast, the recent Warburton-Hendry review of Australia's tax regime found that Australia's 30 per cent corporate tax rate is slightly above the unweighted OECD average of 28.5 per cent, and below the weighted average of 36.5 per cent.[26] Beerworth & Partners summarised the economic benefits of companies by pointing out that the modern day corporation:

- allows passive capital to be used actively;
- limits the liability of the subscribers of that passive capital;
- provides leverage for successful corporate managers enormously beyond their own resources; and
- is the most powerful engine ever devised for capital formation – the aggregation of vast amounts of private capital for enterprise.[27]

2.36 The BCA pointed out the benefits of corporations to society, including the creation of employment:

> It is important to note that ... the greatest social contribution made by corporations is through the goods and services they provide, the wealth they create and the employment they generate.[28]

2.37 Mining and production company Alcoa provided an example of the way corporations can have a positive impact on local economies and employment:

> Our investment has provided essential infrastructure and supported the growth of regional communities. We are one of Australia's leading regional

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24 Department of the Treasury, *Submission 134*, p. 1.

25 Business Council of Australia, *Submission 108*, p. 3.

26 R.F.E. Warburton, *Discussion of International Comparison of Australia's taxes*, April 2006, p. xxii.

27 Beerworth & Partners, *Submission 82*, p. 3.

28 Business Council of Australia, *Submission 108*, p. 8.

> employers, and we provide more than 7,500 jobs, mainly in regional Victoria and Western Australia.[29]

2.38 Treasury quoted the Hon Justice Michael Kirby to demonstrate the economic and social benefits of corporations:

> the idea of an independent corporation, governed by directors and accountable to shareholders, was a brilliant one. It permitted people to raise capital from the public, to invest it without, in most cases, a danger of personal risk and to engage in entrepreneurial activity which, otherwise, would probably not occur.[30]

2.39 The role of corporations in society has changed remarkably over time. From relatively humble business ventures to the gigantic multinational enterprises of today, corporations continue to have a growing influence globally. In 2000, the Institute for Policy Studies released a study that showed that of the world's 100 largest economic entities, 51 are corporations and 49 are countries.[31]

2.40 Corporations are also taking a greater role in the provision of what are often referred to as 'public' or 'essential services'. With the rise of the privatisation of government businesses and government owned assets, corporations are taking on more and more societal roles that were traditionally seen as the domain of governments. For example commercial and not-for-profit corporations are now actively involved in the management and operation of 'public services' such as hospitals, child care, education, employment services, water and electricity supply, telecommunications, banking, defence, etc.

### *Types of corporations*

2.41 Companies operate in many facets of everyday life. A company may be run for profit, such as BHP Billiton and the ANZ Bank, or they may be a not-for-profit company, such as the Smith Family and Mission Australia. Companies operate in both the private and the public sector spheres, being used by individuals, organisations, and governments alike as a vehicle for achieving their objectives. There are of course other structures recognised by law for achieving business and social ends such as partnerships, trusts and incorporated associations. For reasons discussed below, companies have however proved to be a very popular legal form for conducting business.

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29 Mr Kim Horne, Refinery Manager, Pinjarra, Alcoa World Alumina Australia, *Committee Hansard*, 20 February 2006, p. 13.

30 Department of the Treasury, *Submission 134*, p. 2.

31 Sarah Anderson and John Cavanagh, Top 200: The rise of rise of corporate global power, Institute for Policy Studies, 2000, http://www.ips-dc.org/downloads/Top_200.pdf, accessed 19 May 2006.

2.42 There are over 1.4 million companies in Australia.[32] Companies can be established in a number of ways. Most companies in Australia have been established following the procedures set out in the *Corporations Act 2001* and its predecessors.

2.43 Companies established under the Corporations Act must either be proprietary companies or public companies. The key difference between public and proprietary companies is that proprietary companies cannot have more than 50 shareholders (excluding shareholders who are employees) and they are not permitted to engage in certain fundraising activities. In contrast, there is no limitation on the amount of people who can be shareholders of public companies, and public companies are permitted to engage in certain fundraising activities such as issuing shares to the general public. One way that public companies can raise funds is by listing on the Australian Stock Exchange (ASX). Currently there are approximately 1,900 public companies listed on the ASX with a market capitalisation of $1.1 trillion.[33]

### *Key features of companies*

2.44 Companies have two legal features which have made them a very popular vehicle for conducting business. These are the notion of the corporation being a separate legal entity and the fact that limited liability may attach to a company.

*Separate legal entity*

2.45 A company is regarded as a legal entity separate from the people who established it.[34] It also exists as an entity separate from company shareholders and the people who manage it.[35] A corporation has all the legal powers and capacities of an individual.[36] As a result it can contract in its own right, it can sue and be sued, hold property and do other things that an individual is able to do.

2.46 As a result of the notion of a separate legal entity, creditors of the company must look to the company rather than people involved with the company's operations (such as directors) when making a claim to recover money owed by the company.

2.47 The Corporations Act and the common law have developed a limited number of circumstances where the notion of the separate legal entity can be disregarded and legal responsibility for actions of the company can be placed on people who are associated with the company. This is known as 'piercing the corporate veil'. Circumstances where the corporate veil can be pierced include where the company has engaged in insolvent trading, where the reverse onus of proof mechanism is used, and where the company is used as a vehicle for fraud.

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32 Department of the Treasury, *Submission 134*, p. 2.

33 Department of the Treasury, *Submission 134*, p. 2.

34 Salomon v Salomon & Co Ltd [1897] AC 22.

35 Salomon v Salomon & Co Ltd [1897] AC 22.

36 *Corporations Act 2001*, s. 124.

*Limited liability*

2.48 A company may be a limited liability company. The effect of limited liability is that shareholders are not liable for the company's debts.[37]

2.49 Not all companies under the Corporations Act are limited liability companies. Proprietary companies can take two forms; proprietary companies limited by shares and unlimited proprietary companies with share capital. Public companies can take four forms; companies limited by shares, companies limited by guarantee, unlimited companies with share capital and no liability companies. Out of these six types of companies, limited liability applies to companies limited by shares and companies limited by guarantee.

2.50 For companies that are limited by shares, the liability of company shareholders is limited to the amount (if any) that they still owe the company for the purchase of their shares. If the shares are fully paid shares, shareholders will have no further liability. If the company is limited by guarantee, the liability of shareholders is limited to the amount of money owed under that guarantee.

2.51 A number of benefits of limited liability have been noted. In particular, it facilitates investment and otherwise encourages economic activity by separating investment and management functions and shielding investors from any corporate loss in excess of their equity capital. This protection for investors reduces the cost of raising capital.[38]

***Decision making process and influences***

2.52 Whilst the company's constitution will determine the split of decision making between the directors and the company shareholders, generally speaking the board of directors has the power to make decisions on all business matters other than those that have been expressly stated as being for shareholders to vote on at a general meeting. Directors have a series of legal responsibilities or duties to the company. These include the requirement that they act in good faith, with care and diligence, for the benefit of the company and for the purpose for which a power was conferred. They also must not secure an advantage to themselves or others.[39] Whilst directors do bear ultimate responsibility for decision making, many of the day to day decisions made for the corporation are made by company officers (such as Chief Executive Officers, Chief Financial Officers and Secretaries) who do not sit on the board of directors.

2.53 When making decisions for the company, directors and company officers may have to choose between a decision which produces short term benefits for the

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37 Phillip Lipton and Abe Hertzberg, *Understanding Company Law*, thirteenth edition, Lawbook Company, 2006.

38 Companies and Securities Advisory Committee, *Corporate Groups Final Report*, May 2000.

39 Australian Institute of Company Directors, *Submission 73*, p. 7

company or one that achieves long term results. Decision makers may often find themselves under pressure to secure short term benefits at the expense of achieving more long term objectives in order to meet their own personal performance measures as well as posting adequate financial results for the company. This 'short-termism' approach is discussed further in chapter 3.

## The state of play in Australia

2.54 Over the past decade, Australian businesses, governments, communities and academia have generally shown greater engagement with the corporate responsibility agenda. For example, Philanthropy Australia stated in its submission:

> There is undoubted growth in corporate community activity in Australia, evidenced through Australian Bureau of Statistics data and more generally in the growth of voluntary corporate participation in initiatives such as the Australian Corporate Responsibility Index, the Prime Minister's Community Business Partnership Awards, and the Global Reporting [Initiative].[40]

2.55 Australia also has many companies that are leading the push towards greater sustainability. It is impossible to provide a comprehensive list of strong corporate performers in this area without the risk of omitting a committed company. However it is worthwhile noting a couple of the very strong performers.

2.56 Westpac Corporation was cited in many submissions as a leader in the adoption of corporate citizenship.[41] Rio Tinto and BHP Billiton were also cited as leaders in the field.[42] The mining and resources sector in general has been a strong performer, primarily as a result of their ongoing need for mining approvals. Australia's finance sector is also considered to be highly engaged.

2.57 Some Australian companies have been key contributors to developments in the area of global reporting mechanisms. Westpac and National Australia Bank have contributed to international initiatives such as the Global Reporting Initiative.

### *Sustainability reporting*

2.58 KPMG reports that there has been a significant increase in the rate of sustainability reporting in Australia over recent years. Data indicates that the number of sustainability reports produced by the top 500 companies in Australia has increased as follows:

1995: 6 companies (1%)

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40 Philanthropy Australia, *Submission 23*, p. 3.

41 For example, see *Submission 2*, Dr Gianni Zappalà, p. 7.

42 Dr Gianni Zappalà, *Submission 2*, p. 7.

2000: 65 companies (13%)

2005: 119 companies (24%)[43]

2.59 Despite this progress, developments in sustainability reporting have been slow in comparison to other developed countries. According to KPMG, which has conducted several national and international surveys into sustainability reporting, '[i]n Australia the public reporting by organisations...is well below that of most developed countries...although it is increasing rapidly from this low base.'[44]

2.60 The following data indicates the percentage of sustainability reports produced in 2005 by the top 100 companies in certain developed countries, and shows Australia's poor showing internationally:

- Japan: 81%
- UK: 71%
- Average (16 countries): 41%
- Australia: 23%[45]

2.61 The committee notes several reasons for the higher rate of reporting in other countries including legislative requirements to disclose sustainability information and more active consumers and non-governmental organisations advocating for improvement. The committee notes that a low level of sustainability reporting does not necessarily correlate to low level of responsible corporate activities. However, the level of reporting activity is seen as an important indicator of the level of interest and commitment of Australian companies.

2.62 Progress in Australia in the area of sustainability reporting is considered in more detail in chapter 6.

### *Prime Minister's Community Business Partnership*

2.63 A significant initiative taken by the Australian Government in recent years is the Prime Minister's Community Business Partnership (the Partnership), and related initiatives. The Partnership was established in 1999. It is a group of prominent Australians from the community and business sectors who work to foster community business partnerships, act as a 'think-tank' on philanthropic matters and promote corporate giving and corporate social responsibility.[46] The Prime Minister chairs the group. The Partnership's programs and initiatives, which focus on community

43 KPMG, *Submission 53*, p. 3.

44 KPMG, *Submission 53*, covering letter p. 1.

45 KPMG, *Submission* 53, p. 3.

46 Department of Family, Community Services and Indigenous Affairs, *Submission 133*, p. 2.

business collaboration and corporate social responsibility are discussed in more detail in chapter 8.

### *ASX Corporate Governance Principles*

2.64 Another recent development in Australia has been an initiative by the Australian Stock Exchange (ASX), focussing on the corporate governance practices of listed companies. In response to a number of high-profile corporate collapses which occurred in Australia and overseas throughout 2001 and 2002, the ASX Corporate Governance Council released its *Principles of Good Corporate Governance and Best Practice Recommendations* (the ASX Council Recommendations).

2.65 Although the ASX Council Recommendations are designed to encourage improved corporate governance practices, three of the ten principles relate to the disclosure of sustainability information. These principles are: to promote ethical and responsible decision-making; to recognise and manage risk; and to recognise the legitimate interests of stakeholders.[47] The ASX Council Recommendations are explored in detail in chapter 7.

### *Corporate philanthropy*

2.66 Surveys have shown that philanthropic activities by Australian business have increased in recent years. A recent study, *Giving Australia: Research on Australian Philanthropy,* identified that business giving in 2003–04 more than doubled since 2000–01, with more than 525,000 businesses, or 67 per cent of all businesses, giving \$3.3 billion in money, goods, services and time during 2003–04.[48] The report was coordinated by the Australian Council of Social Service and funded by the Prime Minister's Community Partnerships Program.

2.67 The report noted the advantages for business in engaging in corporate philanthropy:

> For business, giving to nonprofit organisations may result in profile or advertising and attract or retain customers (eg via sponsorship). Business may attract staff or improve staff retention rates or skills through employee volunteering or giving programs.[49]

### *Community consultation*

2.68 An innovative development in Australia in recent years has been the setting up of consultative arrangements between corporations and representative community

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47 Australian Stock Exchange Corporate Governance Council, *Principles of Good Corporate Governance and Best Practice Recommendations*, March 2003.

48 Department of Family, Community Services and Indigenous Affairs, *Submission 133*, p. 4.

49 *Giving Australia: Research on Philanthropy in Australia: Summary of Findings*, Commonwealth of Australia, October 2005, Executive Summary, p. x.

groups, to facilitate engagement with the community, and two-way communication. Westpac gave the example of its Community Consultative Councils, which it says play a critical role in focussing Westpac's corporate responsibility activities:

> Council members are drawn from community and government organisations in subject areas relevant to Westpac's social and environmental impacts. .....
>
> The Council supplements ad-hoc and project-based dialogue with external stakeholders and brings together the leaders of these organisations with the CEO and key executives. It provides Westpac with feedback on its policies and strategic direction.[50]

2.69 Energy retailer Origin Energy also gave evidence of its community consultation. Mr Tony Wood of Origin Energy told the committee how, after consultation with representative non-government organisations such as the Brotherhood of St Laurence, innovative practices were adopted to assist customers experiencing financial hardship to pay their bills.[51]

### *Sustainable responsible investment*

2.70 According to the Ethical Investment Association (EIA), there has been a significant increase in Australian funds managed as sustainable investments, also known as Sustainable Responsible Investment (SRI). The EIA in its survey entitled *Sustainable Responsible Investment in Australia 2005* reported that during the 2005 financial year, SRI managed funds grew by around 70 percent (from $4.5 billion to $7.7 billion). In the five years between 2000–05, SRI managed funds grew by over 2 000 percent.[52] The main factors contributing to this significant increase were large superannuation funds adopting SRI policies for existing portfolios, and the strong investment performance of SRI managed funds.

2.71 A comparison of average investment returns also clearly demonstrates the strong performance of Australian funds managed by 'ethical' investors compared with mainstream investors. Data from the 2005 survey conducted by the EIA indicates that over the longer term the average Australian SRI fund consistently outperformed average mainstream funds and the top 300 corporate index (the S&P/ASX300 Index).[53] For example, when averaged over a five or seven year period SRI funds outperformed mainstream funds and the S&P/ASX300 Index benchmark by around three per cent per annum. Although there is insufficient empirical research to support this view emphatically as yet, based on the evidence so far, the committee is of the opinion that corporations that engage in material corporate responsibility activities

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50 Westpac Banking Corporation, *Submission 94*, pp 13–14.

51 Mr Tony Wood, General Manager, Public and Government Affairs, Origin Energy *Committee Hansard*, 5 April 2006, pp 49–50.

52 Ethical Investment Association, *Sustainable responsible investment in Australia 2005*, p. 5.

53 Ethical Investment Association, *Sustainable responsible investment in Australia 2005,* p. 13.

may better and more completely assess medium and long term risk and business opportunities. This issue is discussed further in chapter 3.

2.72 Although past returns do not guarantee future performance, the sustained positive trend, particularly over the long term, is an encouraging development and lends weight to the connection between good corporate behaviour and strong financial performance. Further discussion of sustainable responsible investment as a driver of corporate responsibility is included in chapter 3, and the influence of SRI on investment decisions by institutional investors is considered in chapter 5.